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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BARBARA SMITH,

Plaintiff,

v.

ETHICON, INC., et al.,

Defendants.

Case No.: 3:20-cv-00851-MO

PLAINTIFF'S RESPONSE TO
DEFENDANTS' OBJECTIONS TO
DEPOSITION DESIGNATIONS

Defendants object to Plaintiff's designation of testimony which they characterize as "TVT testimony." While Plaintiff recognizes that the claims regarding the TVT-O device have been dismissed, and thus have withdrawn the vast majority of the "TVT testimony" as a result, Plaintiff anticipates that Defendants intend to introduce and will introduce evidence regarding the TVT, as well as evidence of the purported "long, safe use of polypropylene in the human body." Plaintiff has filed motions in limine seeking to exclude both categories of evidence, but have retained designated testimony intended to rebut Defendants' expected proffer on these issues, as well as Defendants' anticipated objections to Plaintiff's motions in limine on these issues.

In recent Prolift cases, Defendants have opposed the plaintiffs' motions in limine on both these issues, arguing that evidence regarding the TVT "is highly relevant to show how Ethicon's SUI products played a role in the history and development of the Prolift. Specifically, Ethicon's experience with TVT and SUI products beginning in 1998 informed its decisions with regard to Prolift, which was first sold in 2005, and evidence regarding those products should thus be allowed to put Ethicon's decisions involving Prolift into proper context." (*See* Defendants' Response and/or opposition to Plaintiffs' Omnibus Motions *In Limine* 1-17. *Williams v. Ethicon*, 5:20-cv-00234-MTT Dkt. 166 at 11, attached hereto as Exhibit 18).¹ Defendants have also recently argued they "must be allowed to offer evidence that both polypropylene (generally) and Ethicon's Prolene (specifically) have a long history of safe and effective use in the human body, as this evidence rebuts Plaintiffs' allegations and shows that Ethicon acted reasonably in using polypropylene." *Id.* at 7.

¹ The exhibits to this response are found in accompanying Lowther Declaration.

Plaintiff has retained certain designations which reference the TVT in order to counter Defendants' expected evidence on these issues. In the event that the Court grants both motions in limine on this issue, or Defendants concede they will not offer evidence on these issues, Plaintiff will withdraw those designations.

Plaintiff's deposition designations of Barbara Smith, Jerry Blaivas, M.D., Daniel Elliott, M.D., Howard D. Jordi, Ph.D. and Peggy Pence, Ph.D. were done out of an abundance of caution in the event these witnesses became unavailable for reasons outside of her control. At this time, these witnesses plan to appear live at trial. As such, the Court may deny Defendants' objections on this issue as moot. If any of these witnesses do become unavailable in the future, Plaintiff will notify the Court and defense counsel immediately and will take steps to satisfy the appropriate showing of unavailability.

The sole witness who is known, and has been known, to both parties as unavailable at trial is Dr. Uwe Klinge. Under Rule 32(a)(4)(B), Dr. Uwe Klinge, who lives in Belgium, is unavailable to testify live at trial. He is more than 100 miles from this Court and well outside the Court's subpoena power. Moreover, Dr. Klinge's wife has a disease that requires him to be at home to provide care, a fact of which Defendants are well aware and is the reason why they previously agreed in other litigations that plaintiffs could use Dr. Klinge's videotaped testimony taken in *Bellew* and use it in subsequent trials.

Dr. Klinge has been deposed twice and has provided live testimony—all of which both parties should be free to use under Rule 32. As shown below, Dr. Klinge is an important witness with unique testimony. He is a retained expert, but he is also a fact witness, as a scientist who was involved with the development of the mesh products at issue, and was a consultant for

Ethicon for many years. Dr. Klinge was not chosen as an expert because he happens to live in Belgium, outside the subpoena power of a West Virginia court (for the MDL proceedings) or this Court. Dr. Klinge has, in fact, testified live in U.S. courts before, including the *Gross v. Ethicon* case (2013), and *Lewis v. Ethicon* (2014). Plaintiff retained him on merit, as a renowned scientist with specialized knowledge of Ethicon's products. The issues have not changed since the most recent trial in which Ethicon did not object to this testimony—in 2021.²

Dr. Klinge's qualifications are undisputed. These include his extensive experience as a trusted consultant for Ethicon and as one of the researchers at the forefront of evaluating mesh complications. As demonstrated in the attached exhibits, Dr. Klinge has been an internationally recognized expert in biomaterials research and the design of surgical meshes for more than twenty years. (Klinge Curriculum Vitae, attached hereto as Exhibit 1; Klinge Expert Report, attached as Exhibit 2, at p. 2). Dr. Klinge and his collaborators developed the mesh-related concepts of fibrotic bridging, scar plate formation, effective porosity and lightweight/large pore mesh—concepts that Ethicon came to accept and use. (Exhibit 2, at pp. 6-7). He has authored or co-authored approximately 200 peer-reviewed publications, more than 100 of which are on the topic of surgical meshes. (Exhibit 1, at pp. 2-20; Exhibit 2, at 5).

Based on Dr. Klinge's extensive knowledge and experience, Ethicon retained him as a consultant from 1994 to 2004, and Ethicon has relied on his expertise regarding biocompatibility and tissue response to surgical meshes, as reflected by countless internal documents created and/or exchanged between Dr. Klinge and Ethicon. (Exhibit 1, at 39; Exhibit 2, at 6-9; Klinge

² That case, *Kieffaber v. Ethicon, Inc.*, Case No. 6:20-cv-01177 (D. Kan.), settled shortly before trial, but the parties had already designated deposition testimony.

Dep. 11/10/2014, attached as Exhibit 3, at pp. 13-14, 37-40, 47-48). A few of the many examples are as follows:

- Ethicon recognized Dr. Klinge as a “Global Thought Leader” in hernia repair technology and a member of Ethicon’s “Technology sub Strategy Team.” (Exhibit 4).
- In its September 2012 Clinical Expert Report for Gynecare Prolift+M, Ethicon cited to a publication co-authored by Dr. Klinge regarding evaluation of different polypropylene-mesh modifications for abdominal wall repair. (Exhibit 5).
- Ethicon has relied upon Dr. Klinge and Dr. Mühl’s publication regarding effective porosity and pore size measurement. (Exhibit 6 at 9; attached as Exhibit 7, at 1).

Dr. Klinge’s work in developing the mesh that was ultimately patented and sold by Ethicon as “Vypro” resulted in defining the minimum distance necessary between pore fibers as 1000 microns (or 1 mm), to prevent the pores from filling with scar tissue and hardening the mesh. (Exhibit 2, at pp. 6-7; Exhibit 3, at pp. 50-51). In 2002, Dr. Klinge co-authored a groundbreaking publication regarding this pore size requirement titled: “Impact of polymer pore size on the interface scar formation in a rat model.” J. Surg. Res. 2002 Apr; 103(2):208-14. (Exhibit 1 at p. 5; Exhibit 3 at pp. 49-51). As disclosed in that peer-reviewed journal article, Ethicon funded the scientific work.

Ethicon has invited Dr. Klinge on dozens of occasions to lecture about safer mesh designs for hernia and pelvic floor repair. (Exhibit 3 at p. 15). In 2007, Ethicon invited Dr. Klinge to give presentations regarding his experiences with textiles in surgery. (“Pelvic Floor Mesh Forum,” attached as Exhibit 8; “Wissenschaftliche Grundlagen und klinische Evidenz von

Netz-Implantaten,” attached as Exhibit 9; “Experimental investigations with alloplastic materials: Which properties are essential for use at the pelvic floor?” attached as Exhibit 10).

Referencing Dr. Klinge, Ethicon’s Worldwide Medical Director and designated corporate representative from medical affairs, Dr. Piet Hinoul, testified during the first Prolift trial in the United States that “[t]here’s not many people in the world that make a living researching mesh in human specimens and in animal specimens. It’s a very specific part of research.” (1/16/13 Trial Transcript, *Gross, et al. v. Ethicon, Inc., et al.*, Superior Court of New Jersey, attached as Exhibit 11 at p. 1113). He went on to testify that Dr. Klinge “is one of them” and agreed that he is highly qualified in that field. (*Id.* at pp. 1113-14). At his deposition, Dr. Hinoul testified that he would defer to Dr. Klinge’s data as to whether the pores in the Prolift mesh collapse or deform in regular use. (Hinoul Dep. 9/19/2012, attached as Exhibit 12 at p. 1054).

Ethicon retained Dr. Klinge as a mesh consultant for 10 years because he is a world leader in the study and research of mesh biocompatibility and tissue response. Internal company documents show Ethicon has relied on Dr. Klinge’s research and conclusions, which he primarily formed during his years as a consultant for Ethicon—not for purposes of litigation.

Due to his singular quality of being **both** a world-renowned expert on surgical mesh **and** a former, longtime consultant for Ethicon, Dr. Klinge was an obvious choice as one of the plaintiffs’ primary experts in the MDL.³ Defendants’ counsel in the MDL agreed on and helped to coordinate Dr. Klinge’s videotaped *de bene esse* deposition in the MDL, which took place in Germany on November 10, 2014. Thereafter, the plaintiffs introduced Dr. Klinge’s deposition

³ Under the procedures established by the MDL court, Plaintiff was limited to selecting from a small pool of general experts previously retained by the plaintiffs’ leadership in the MDL. Plaintiff’s counsel, therefore, did not have unfettered freedom to select any expert of their choosing, as they would in a typical case.

testimony in lieu of live testimony in two trials, without objection.⁴ (*See, e.g.*, Proposed *Bellew* Pretrial Order at pp. 1-2, attached as Exhibit 13). *See also* as-played transcripts of Dr. Klinge's Bellew video testimony, attached hereto as Exhibit 14). Just last year, Defendants agreed to the introduction of Dr. Klinge's deposition testimony in *Kieffaber v. Ethicon*, 6:20-CV-01177 (D. Kan.). (*See* 4/7/2021 e-mails, attached hereto as Exhibit 16).⁵ Defendants also lost this same argument in the *Williams* case. (*See* Transcript of pretrial hearing February 23, 2022 at 65 attached hereto as Exhibit 15).

Dr. Klinge is unavailable to appear live at trial, and Plaintiff should be permitted to introduce his deposition testimony. Moreover, the position taken by Ethicon in this case is inconsistent with the position they have taken regarding their own experts in previous cases. For example, in the *Hammons* case, Ethicon took the position that its own case-specific expert, Dr. Joye Lowman, was unavailable for trial because of patient appointments she wish not to cancel for the day of her scheduled testimony. *See* Exhibit 17, Lowman Trial Deposition Transcript at 7:17 -10:7. Under these circumstances, Ethicon was allowed to present Dr. Lowman at trial by way of videotaped testimony. *Id.* Accordingly, Defendants' objection to Dr. Klinge should be overruled.

Pursuant to Fed. R. Civ. P. 32(a)(4)(B), the testimony of a witness who is "unavailable" to appear live at trial may be introduced through his deposition. A witness is considered

⁴ *Bellew v. Ethicon*, 2:13-cv-22473 (S.D. W. Va.); *Kaiser v. Ethicon*, 2:17-cv-000114 (N.D. Ind.).

⁵ Defendants point out that Dr. Klinge has traveled to the United States to provide live testimony in other mesh litigation cases. *See, e.g.*, *Lewis v. Ethicon*, No. 2:12-cv-04301 (S.D.W. Va. Feb. 13, 2014); *Gross v. Gynecare*, No. ATL-L-6966-10 (Sup. Ct. N.J. Feb. 4, 2013). These cases were some of the first mesh cases to be tried in this country, and Dr. Klinge's live testimony occurred before his *de bene esse* deposition was taken. To the best of Plaintiff's knowledge, Dr. Klinge has not provided live testimony at any mesh trial since his *de bene esse* deposition occurred.

unavailable if he or she resides "more than 100 miles from the place of ... trial or is outside the United States, unless it appears that the witness's absence was procured by the party offering the deposition." *Id.* Dr. Klinge resides in Belgium, outside of the United States, and well beyond the subpoena power of this Court. He is, therefore, unavailable pursuant to Rule 32.

Plaintiff did not retain Dr. Klinge for the purpose of avoiding live cross-examination at trial. If that were the case, the plaintiffs would not have brought him to testify live at two bellwether trials in the early—and critical—stages of the MDL. It was instead because, as Ethicon's Worldwide Medical Director Dr. Piet Hinoul has previously conceded, Dr. Klinge is one of only a small handful of highly qualified and knowledgeable researchers in the field of surgical mesh.

Here, Dr. Klinge's role as a longtime Ethicon consultant on many of the issues involved in this case lends substantial import to his testimony. As a result of his research, Dr. Klinge advised Ethicon for years about issues regarding the properties of its mesh products and made recommendations to Ethicon. Dr. Klinge has the unique ability to testify about the development of Ethicon's mesh products and the risks they pose. No other similarly qualified expert is in such a unique position. It is for this reason that Defendants have now made this eleventh-hour attempt to prevent Plaintiff from using Dr. Klinge's deposition testimony at trial.

Ethicon's argument is also illogical in the MDL context. Ethicon has not identified anything unique about this case, as compared with other MDL cases. Therefore, Ethicon's argument suggests that Dr. Klinge must travel from Europe to testify live in every trial remanded from the MDL. Ethicon has not cited one case that supports this unrealistic position. Every case Ethicon cited was an individual case, not an MDL case, and they are all distinguishable from the

case at hand.⁶ It is one thing in a single case to require an American expert to appear at trial. Ethicon's position, however, would require Dr. Klinge to travel internationally for every remand trial, despite having previously agreed to allowing his testimony to be preserved by video due to his family obligations and subject to cross-examination, multiple times. As demonstrated above, Dr. Klinge's testimony focuses on the development of Ethicon's mesh products, many years ago. Nothing has happened since his 2014 deposition that would render his testimony invalid. Dr. Klinge is unavailable under Rule 32(a)(4)(B), so there is no legal basis to deny Plaintiff the right to play his testimony at trial.

As for the counter deposition designations the Defendants submitted on June 9, ECF No. 267, they are late and should be stricken. Under the Court's Amended Trial Management Order, Defendants' "deposition designations were due two days after plaintiff's submissions." ECF No. 193 at 2, para. 3d(3). The due date was June 6, not June 9, a fact Defendants recognized. ECF No. 253.

⁶ In *Carter-Wallace, Inc. v. Otte*, 474 F.2d 529 (2d Cir. 1972), the court **allowed** the prior testimony. *Id.* at 537. So that case clearly does not help Ethicon's argument. In *Kirk v. Raymark Industries, Inc.*, 61 F.3d 147 (3d Cir. 1995), the trial court made no finding as to unavailability at all, leading to reversal. *Id.* at 165. In *Livers v. Schenck*, No. 8:08CV107, 2013 WL 5676881 (D. Neb. Oct. 18, 2013), the court justified requiring an expert to testify live by stating that experts "generally [have] no knowledge of the facts of the case," and that the loss of one expert is immaterial because "there will usually be other experts available to give similar testimony orally." *Id.* at *3. Neither of those statements apply to Dr. Klinge, who has factual knowledge about the development of Ethicon's mesh products, and who offers unique testimony that no one else could give, as shown above. And like the other cited cases, *Livers* was an individual case, not an MDL case. See generally *id.* In *Kamara v. United States*, No. 04 CIV. 626(THK), 2005 WL 2298176 (S.D.N.Y. Sept. 20, 2005), there was no showing that the experts at issue were outside the subpoena power of the court, or unavailable in any other way. *Id.* at *6. Here, the expert lives in Belgium. In *Evans v. Langston*, 166 P.3d 621 (Utah App. 2007), the plaintiffs procured the expert witness's absence by expressly telling him that he did not need to attend trial. Similarly, in *Caron v. General Motors*, 643 N.E.2d 471 (Mass. App. 1994), the trial judge suspected that plaintiff's counsel made little real effort to secure the experts' attendance at trial. Finally, in *Myers v. Estate of Alessi*, 560 A.2d 59 (Md. App. 1989), plaintiffs chose not to pay their expert to attend trial and, as a result, were precluded from introducing his deposition testimony. By contrast, Plaintiff's counsel has not procured Dr. Klinge's absence or failed to pay Dr. Klinge and, in fact, has made attempts to secure his testimony but have been unsuccessful because of his location overseas and his familial obligations.

Plaintiff's responses to Defendants' objections to the deposition designations are in the attached chart (Exhibit A).

Date: June 16, 2022

Respectfully submitted:

/s/ John Lowther

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Certificate Of Service

I hereby certify on June 16, 2022, I electronically filed Plaintiff's Response To Defendants' Objections To Deposition Designations and Declaration of John Lowther In Support with the Clerk of the Court using the CM/ECF system, which will send notification of this Response and Declaration to the CM/ECF participants registered to receive service in this matter.

Respectfully Submitted,

/s/ John Lowther

John Lowther, Esq.

Doyle Lowther LLP

Exhibit A

Barbara Smith

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
44:14-45:7	401/403; subject to MIL re spoliation		This is not evidence of spoliation, this is simply background facts relevant to the case. Plaintiff additionally adopts and incorporates by reference her response to Defense MILs at #15

Laura Angelini

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Laura Angelini 09/17/13			
25:24-26:16	401/403; testimony involves medical opinions from a lay witness regarding complications not alleged by this Plaintiff as a result of the product at issue in this case.		Not a medical opinion. Testimony from Marketing executive regarding her knowledge of a product she had responsibility over. Ms. Smith remains at risk of Dyspareunia from her injuries and they interfere with her engaging in intercourse. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community" concerning the allegedly defective product's "characteristics."
28:13-28:20	401/403 – this testimony and Exhibit (3207) involves complications not alleged by this Plaintiff as a result of the product at issue in this case. Moreover, this		Same as above

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	testimony and email constitute impermissible character evidence.		
29:2-29:7	Same as above.		Same as above.
30:3-31:6	Same as above.		Same as above.
33:13-36:7	Same as above.	33:4-5 33:7-9	Same as above Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
Laura Angelini 06/19/15			
127:18-128:2	Irrelevant TVT evidence (testimony and exhibit 3742)	217:6-9 217:14-18 222:2-4 222:7-223:2	This evidence is relevant due to the fact that the TVT is a transvaginal mesh made of the same polypropylene material as the Prolift and Defendants base their marketing of the Prolift, in part, on their prior experience with the TVT and the use of polypropylene in the human body. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
128:6-128:20	Same as above.	217:6-9 217:14-18 222:2-4	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		222:7-223:2	Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
139:14-140:21	401; 403; hearsay within hearsay (testimony and exhibit 3743)	235:6-10 236:1-239:18 239:22-240:9 240:12-18 245:11-14	<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. It is also not Hearsay as it is a statement authorized by a party's agent within the scope of her employment. 801(d)(2)(D). Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
141:1-141:23	Same as above.	235:6-10 236:1-239:18 239:22-240:9 240:12-18 245:11-14	Same as above.
142:2-142:18	Same as above.	235:6-10 236:1-239:18 239:22-240:9 240:12-18 245:11-14	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
142:20-143:13	Same as above.	235:6-10 236:1-239:18 239:22-240:9 240:12-18 245:11-14	Same as above.
144:11-144:23	Same as above.	235:6-10 236:1-239:18 239:22-240:9 240:12-18 245:11-14	Same as above. Same as above.

Axel Arnaud, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Axel Arnaud, MD 11/15/12			
11:8-11:10			
13:18-13:24			
22:6-22:13			
23:19 -24:1			
25:19-26:1		26:15-27:11 30:4-30:17 31:18-32:2 32:18-25	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
33:23-35:14	401/403 – this testimony and Exhibit (1250) involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community" concerning the allegedly defective product's "characteristics."
40:25-41:21			
49:7-49:17			
52:13-52:17			
58:22-59:12	401/403 – this testimony and Exhibit (1253) involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
67:11-68:9	Same as above.		Same as above
68:11-69:13	Same as above.		Same as above
69:15-70:9	Same as above.		Same as above
78:20-80:10			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
84:20-85:11			
85:25-87:13			
140:22-141:18			
154:22-155:10	Hearsay within hearsay as to testimony and exhibit (620) – Dr. Cosson is not an employee of Ethicon.		Dr. Cosson was a consultant for Ethicon under contract and authorized to speak on their behalf. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
156:11-156:17	Same as above; also 401/403 re complications not alleged by Plaintiff in this case.		Same as above. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
169:23-170:11			
170:13-170:14			
170:23-171:6			
171:22-172:5			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
172:11-173:19		173:21-174:10	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
180:9-180:15	Hearsay testimony and exhibit (1181) – the email at issue discusses hearsay conversations with nonEthicon employees regarding opinions of the mesh. Also 401/403 – this testimony and exhibit involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
184:24-185:10	Same as above.	183:14-184:2	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
192:24-193:5	Argumentative; lack of foundation; calls for company witness testimony from a lay witness		Same as above. Not expert testimony- within scope of knowledge as fact witness.
193:12-193:20	Same as above.		Same as above.
195:5-195:25	Same as above.		Same as above.
200:24-201:4	Argumentative; lack of foundation; also 401/403 – this testimony and exhibit involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		Same as above.
201:7-201:7	Same as above.		Same as above.
201:9-201:12	Same as above.		Same as above.
201:15-201:19	Same as above.		Same as above.
209:2-209:10	Hearsay – this testimony and exhibit (3005) relates to an email regarding a conversation with Prof. Jacquetin regarding his opinions on certain issues and data related to the Prolift. Prof. Jacquetin was not an employee of Ethicon, and he was not designated in this case as an expert witness (non-retained or otherwise); also 401/403 – this testimony and exhibit involves complications not alleged by this Plaintiff as a result of the product at issue in this case		Dr. Cosson was a long-term consultant for Ethicon was authorized by Ethicon to work on their behalf. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. It is also not Hearsay as it is a statement by a person authorized by a party to make 801(d)(2)(C) and a Statement by party's agent 801(d)(2)(D). Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
210:3-210:12	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
211:11-211:18	Same as above.	210:16-211:10	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
222:6-222:13	Argumentative; lack of foundation.		Same as above.
231:24-232:10	401/403 – this testimony and exhibit (619) involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
232:18-233:9	Same as above.	233:16-19 233:21-234:11	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
242:3-242:5	Same as above.		Same as above.
245:6-247:13		248:25-249:4 249:6-20	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
259:7-259:20			
261:8-262:1			
262:3-262:5			
262:16-263:4			
271:18-271:22			
272:16-273:8			
274:7-274:8 (Note: ending at "exhibit 439")	Hearsay – this testimony and exhibit (439) relates to an email regarding a conversation with Prof. Eberhard regarding his opinions on certain issues and data related to the Prolift. Prof. Eberhard was not an employee of Ethicon, and he was not designated in this case as an expert witness (non-retained or otherwise); also 401/403 – this testimony and exhibit involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
276:18-277:6	Same as above.		Same as above
291:25-292:10	401/403 – this testimony involves emails (exhibit		This evidence is relevant to show the defects of the Prolift and the Defendants' knowledge/state of mind.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	1264) which post-date Plaintiff's implant regarding future marketing strategies.		
293:22-294:13	Same as above.		This evidence is relevant to show the defects of the Prolift and the Defendants' knowledge/state of mind.
294:15-296:12	Hearsay – this testimony and exhibit (1265) relates to a conversation with Jan Deprest regarding opinions on certain issues and data related to the Prolift. Jan Deprest was not an employee of Ethicon, and was not designated in this case as an expert witness (non-retained or otherwise); also 401/403 – this testimony and exhibit involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
Axel Arnaud, MD 11/16/12			
344:2-345:5	Hearsay literature article (exhibit 665); post-dates Plaintiff's implant		<p>This evidence is relevant to show the defects of the Prolift and the Defendants' knowledge/state of mind.</p> <p>Testimony is admissible under 803(18).</p>
347:5-347:17	Same as above.		Same as above
348:3-349:3	Same as above.		Same as above

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
355:13-355:25	Same as above.		Same as above
356:1-356:19	Same as above.		Same as above
365:9-365:21			
367:7-368:5	401/403 – exhibit (1266) post-dates Plaintiff's implant; involves complications not alleged by this Plaintiff.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
368:11-368:18	Same as above.		Same as above
369:2-369:6	Hearsay literature article (exhibit 1268) re hernia repair. 401/403.		<p>This evidence is relevant to show the defects and risks of the Prolift and the Defendants' knowledge/state of mind regarding same.</p> <p>Testimony is admissible under 803(18).</p>
369:19-369:23	Same as above.		Same as above.
388:10-388:25	Same as above.		Same as above.
389:3-389:12	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
389:14-389:15	Same as above.		
410:25-411:10	401/403; exhibit (1029) postdates Plaintiff's implant and includes hearsay within hearsay statements of nonEthicon employees.		Same as above.
418:10-419:5	Same as above; also lack of foundation/personal knowledge – this PPT (exhibit 1028) was not created by Dr. Arnaud and there is no testimony that establishes that Dr. Arnaud had seen this PPT.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.
419:7-419:9	Same as above.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.
419:24-420:4	Same as above.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.
420:6-420:6	Same as above.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.
425:8-425:16	Same as above.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.
425:17-426:3	Same as above.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
427:5-427:12	Same as above.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.
427:14-427:23	Same as above.		Same as above. Document will be admitted through another witness, and Dr. Arnaud is a Medical director for the company with knowledge of the contents therein.
431:4-432:7	401/403; email (exhibit 512) post-dates Plaintiff's implant	432:17-433:3 433:23-25 434:2-14	Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
434:16-435:22	401/403; exhibit post-dates Plaintiff's implant and includes hearsay within hearsay statements of nonEthicon employees.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
439:20-440:3	Same as above.		Same as above.
440:5-440:6	Same as above.		Same as above.
446:23-447:8	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
447:9-448:16	Same as above; also regards complications not alleged by Plaintiff in this case.		Same as above.
457:11-458:25	401/403; exhibit 1269 postdates Plaintiff's implant; also, regards complications not alleged by Plaintiff in this case.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
459:2-459:2	Same as above.		Same as above.
460:9-460:13	Same as above.		Same as above.
460:15-461:1	Same as above.		Same as above.
467:8-467:13	Same as above.		Same as above.
467:16-467:16	Same as above.		Same as above.
467:25-468:7	Hearsay literature article (exhibit 663); post-dates Plaintiff's implant.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Testimony is admissible under 803(18).
480:2-481:17	Same as above.		Same as above
482:18-482:25	Same as above.		Same as above
487:3-487:7			
487:8-487:14			
488:22-489:10	Hearsay literature article; post-dates Plaintiff's implant.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Testimony is admissible under 803(18).</p>
515:9-515:10	401/403; hearsay presentation (exhibit 1271) by nonEthicon employees; postdates Plaintiff's implant and involves complications not alleged by this Plaintiff.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Authors were long-term consultant for Ethicon and authorized by Ethicon to work on their behalf. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. It is also not Hearsay as it is a statement by a person authorized by a party to make 801(d)(2)(C) and a Statement by party's agent 801(d)(2)(D). Even if it is hearsay, it is admissible</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1), 803(18).
515:19-516:3	Same as above.		Same as above.
517:16-519:23	Same as above.		Same as above.
519:25-519:25	Same as above.		Same as above.
525:14-525:25	401/403; post-dates Plaintiff's implant (exhibit 1190); involves complications not alleged by this Plaintiff.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
526:25-527:9	Same as above.	527:10-11 527:13-16 528:1-12	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
528:13-528:21		527:10-11	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		527:13-16 528:1-12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
566:9-568:7	401/403 – this testimony and exhibit (619) involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
568:8-568:12	Same as above.		Same as above.
569:19-570:16		570:19-571:5	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
571:22-572:12		570:19-571:5	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
572:14 (ending at "yes")		572:14-15	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
573:21-574:4		572:17-573:3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
575:7-576:6	Involves complications not alleged by this Plaintiff as a result of the product at issue in this case; lack of foundation; improper hypothetical.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
576:8-576:12	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		533:21-533:22 534:2-539:11 539:15-542:14 542:19-24 543:14-545:18 546:9-547:7 547:8-547:18 547:21-25 550:24-552:3 552:7-552:15 552:17-552:25 554:10-12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).
		554:21-555:2 555:5-555:14 555:17-555:21 555:23-556:2 556:4-556:6 556:9-556:19 556:20-557:5 557:8-557:10 557:13-557:25 558:1-558:22 558:23-559:16 560:10-560:13 560:16-561:15 561:22-563:12 563:15-564:4 565:1-565:13 565:14-565:15 565:18-565:18 565:19-565:21 568:17-569:5 572:17-573:3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Axel Arnaud, MD 09/25/13			
992:3-992:11	Irrelevant TVT evidence.		TVT and Prolift have same mesh and similar developmental history. The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
992:15-992:23	401/403; involves marketing of hernia mesh, product and conditions not at issue in this case; lack of foundation; lack of personal knowledge	994:1-24	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
		Conditional Counter Designations 867:5-25 868:4-7 868:17-871:11 872:18-874:20 874:22-875:5 881:3-5 881:7-9 883:6-885:8 890:11-891:9 891:11-15 891:18-19 891:21-25-	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		892:4-10 892:12-16 892:18-25 894:21-895:14 895:16-897:1 897:4-11 897:14-897:25 898:2 900:1-6 900:8-9 900:19-901:12 901:14-16 901:18-23 902:5-903:3 903:5-904:17 906:12-907:18 907:20-908:3 908:24-909:6 986:13-23	

Thomas Barbolt, Ph.D.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Thomas Barbolt, Ph.D. 10/09/12			
15:16-15:21			
23:21-24:4			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
28:3-28:6		27:19-28:2	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
41:10 (beginning with "Are")-42:9			
64:2 (beginning with "you are"-64:8			
123:25-124:22		124:23-125:17	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
125:18-125:23		126:4-13	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
133:15-133:25			
134:21-135:14			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
169:8-170:2	169:25-170:2: Outside the scope of the designation; lack of foundation; lack of personal knowledge.		Dr. Barbolt is a 30(b)(6) witness designated by the company on these topics including degradation and biocompatibility of mesh and his knowledge is relevant, as well as his lack of knowledge.
170:4-170:4	Same as above.	170:12-171:1	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
179:10-179:18		179:19-180:3 180:19-181:5	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
190:8-190:11			
196:10-196:17		196:18	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
Thomas Barbolt, Ph.D. 10/10/12			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
296:18-21			
297:4-297:19			
302:23-303:2 (stop after "correct).		303:2-3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
304:6-304:12		304:13-20	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
304:21-305:5		304:13-20	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
305:7-305:9		305:19-21	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
336:8-336:17			
350:12-350:15	401; 403; 407		Relevant, probative, and within scope of designation and knowledge as fact witness and 30b6 designee by company.
350:17-350:17	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
350:19-350:23	Same as above.		Same as above.
354:3-354:6 (ending after "Yes")	Same as above.	354:6-9	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
354:11-354:14	401; 403; implicates FDA evidence; subject to MIL	354:18-24	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
354:16-354:16	Same as above.	354:18-24	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
360:24-361:2			
361:5-361:8		365:20-366:7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
369:17-369:20		365:20-366:7 368:15-18 368:20-369:11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
369:22-369:22		365:20-366:7 368:15-18 368:20-369:11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
377:20-378:2	401; 403; 407	377:4-10	Relevant, probative, and within scope of designation and knowledge as fact witness and 30b6 designee by company. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
382:24-383:2	401/403 – involves complications not alleged by this Plaintiff as a result of the product at issue in this case; lack of foundation; lack of personal knowledge; outside the scope.		Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>what the “ordinary consumer” would contemplate, including “ordinary knowledge common to the community”</p> <p>Dr. Barbolt is a 30(b)(6) witness designated by the company on these topics including degradation and biocompatibility of mesh and his knowledge is relevant, as well as his lack of knowledge.</p>
383:8-383:10	Same as above.		Same as above
383:12-383:12	Same as above.	384:25-385:9	<p>Same as above</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due “two days after plaintiff's submission,” ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
386:12-386:20			
386:22-386:22			
388:9-388:12			
389:11-389:16	<p>Lack of foundation – Plaintiff's counsel is representing alleged facts from medical journal articles without laying the foundation for those facts.</p> <p>Hearsay</p>		<p>Dr. Barbolt is a 30(b)(6) witness designated by the company on these topics including degradation and biocompatibility of mesh and his knowledge is relevant, as well as his lack of knowledge. This is a proper hypothetical.</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
389:19-389:19	Same as above.		Same as above
392:8-392:11	401/403 – involves complications not alleged by this Plaintiff as a result of the product at issue in this case; lack of foundation; lack of personal knowledge; outside the scope.		<p>Dr. Barbolt is a 30(b)(6) witness designated by the company on these topics including degradation and biocompatibility of mesh and his knowledge is relevant, as well as his lack of knowledge.</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
392:14-392:15	Same as above.		Same as above.
392:17-392:17	Same as above.		Same as above
393:5-393:10	Same as above.		Same as above
393:12-393:12	Same as above.		Same as above
394:12-394:23	Hearsay – reading medical literature to the witness. 401; 403; involves hernia mesh.		Dr. Barbolt is a 30(b)(6) witness designated by the company on these topics including degradation and biocompatibility of mesh and his knowledge is relevant, as well as his lack of knowledge.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
416:8-416:21	401/403 – involves complications not alleged by this Plaintiff as a result of the product at issue in this case		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
417:15-417:19	401; 403; 407		Relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims. Dr. Barbolt is a 30(b)(6) witness designated by the company on these topics including degradation and biocompatibility of mesh and his knowledge is relevant, as well as his lack of knowledge.
424:20-424:24	401/403 – involves complications not alleged by this Plaintiff as a result of the product at issue in this case; post-dates Plaintiff's implant		<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			implant does not make it inadmissible or irrelevant to those claims.
425:1-425:2	Same as above.		Same as above
437:2-437:11	Same as above; also 407 (regarding testimony and exhibit 1157)		Same as above. In addition, Plaintiffs contend this is not a subsequent remedial measure, but if it is, it falls under an exception to 407 in that it is offered for impeachment of disputed facts, and to show feasibility of precautionary measures
437:13-437:15	Same as above; also 407 (regarding testimony and exhibit 1157)		Same as above
437:17-437:18	Same as above; also 407 (regarding testimony and exhibit 1157)		Same as above
437:20-437:20	Same as above; also 407 (regarding testimony and exhibit 1157)		Same as above
449:6-450:7	401/403 – testimony and exhibit (1158) involve complications not alleged by this Plaintiff as a result of the product at issue in this case; post-dates Plaintiff's implant; 407; hearsay within hearsay.		Same as above
451:2-451:14	Same as above.		Same as above
451:17-451:17	Same as above.		Same as above.
451:20-452:17	Same as above.		Same as above.
452:20-452:20	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
452:22-452:22	Same as above.		Same as above.
		<p>571:23-582:22 583:3-594:5 594:10-597:25 598:10-600:15 600:21-25 602:2-603:1 603:19-608:4 608:9-629:18</p> <p><u>1/8/2014 Deposition</u> 559:22-560:24 561:2 561:4-562:15 562:19-20 562:22-25 563:3-4 563:6-9 563:12 563:15 563:18-564:24 565:1-8 565:10- 566:2 566:4 566:6-570:15 570:17-19 570:21-572:1 572:5- 573:22 574:6-577:16 577:17-578:24 579:1-579:14 579:18-579:25</p>	<p>Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).</p>

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
		580:2 580:4-580:10 580:12-584:3 584:6-584:11 585:10-591:2 591:17-591:21 591:23-594:4 594:6-595:15 595:17-597:2 597:5-24 598:2-599:1 599:5-600:19 600:23-601:19 602:1-603:9 603:11-18 603:20-604:2 604:5-7 604:9 604:11- 605:1 605:3 605:5-606:21 607:15-22 607:24 608:1-613:8 614:20-24 615:1 615:3-19 615:21 615:23-616:9 616:11-617:5 618:10-619:10 619:12-20 619:22-620:8 620:24-621:1	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		<p>621:4-7 621:9-622:1 622:2-4 (ending with "Study") 622:11-20 622:22-23 623:5-624:14 624:16-17 624:19-21 625:6-16 625:18-24 626:4-627:18 627:25-628:7 628:14-22 629:3-4 629:5-8 629:10-14 629:16-17</p> <p><u>8/15/2013 Deposition</u> 472:11-473:13 474:3-474:11 475:1-475:12 475:24-476:17 477:20-479:14 479:22-480:4 489:15-490:19 490:21-491:1 492:25-493:15 493:17-494:24 499:24-500:2 (Begin at "Go to the.") 500:5-500:12 (Begin at "It's an August 8.")</p>	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		500:23-501:12 501:18-502:20 502:22-503:21 504:2-508:22 510:23-511:13 511:19-513:11 514:8-514:25 518:17-519:13 521:11-522:5 (Begin at "How do the findings.") 522:9-522:13 (Begin at "How does that compare.") 522:16-523:5 526:19-529:1 532:3-532:15 532:17	

Jerry Blaivas, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Jerry Blaivas, MD 03/02/16	See Defendants' general objection to this entire deposition as an improper designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this designated testimony if the general objections are overruled.		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to provide specific objections. Any objections served at a later date should be stricken as untimely.
6:2-6:4			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
9:20-10:2			
10:6 -10:20			
11:24-13:19			
14:16-15:17			
27:10-27:23			
28:3-28:24			
29:18-29:20			
30:20-30:21			
30:23-30:23			
31:1-32:7			
33:20-34:13 (strike line 33:23)			
42:13-42:17			
42:19-42:20			
42:22-43:8			
43:14-43:17			
43:19-45:6			
45:12-45:15			
52:10-52:14			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
53:23-54:2			
54:4-55:1			
55:12-56:21			
64:18-65:8			
65:10-65:15			
75:8-75:10			
75:12-75:24			
80:2-80:23			
81:3-81:5			
81:7-81:13			
81:15-82:17			
86:20-86:22			
87:2-87:6			
87:19-88:6			
91:9-91:12			
91:15-91:20			
92:9-92:15			
92:17-92:20			
92:22-93:4			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
94:2-95:13			
99:23-100:5			
129:22-130:17			
135:13-136:4			
138:2-138:6			
138:14-140:14			
142:6-143:8			
143:15-143:17			
143:19-143:19			
143:21-143:22			
143:24-143:24			

Peter Cecchini

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Peter Cecchini 10/22/13			
9:17-9:18			
13:5-13:7			
19:1-19:5			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Peter Cecchini 10/23/13			
285:18-286:14	401; 403; Lack of foundation/outside the scope – this witness is an Ethicon regulatory affairs fact witness who is not testifying in any sort of capacity that allows him to provide relevant opinions regarding the Johnson & Johnson credo (exhibit 1438A). Further, this is an improper attempt to suggest a legal standard based on a company Credo; the Court will instruct the jury on the appropriate standard.		Witness clearly established foundation as he testified he was familiar with document. The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims. The defendants' own argument shows that there is no 403 issue as the Court will instruct the jury as to the proper legal standard.
287:17-287:19	Same as above.		Same as above
287:21-288:7	Same as above.		Same as above
288:13-288:25	Same as above.		Same as above

Meng Chen, MD, Ph.D.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Meng Chen, MD, Ph.D., 10/29/13	The entirety of Plaintiff's affirmative designations for this witness are subject to multiple motions in limine. First, the entirety of this witness's testimony involves the IFU for the TVT family of products, a product		Plaintiffs adopt and incorporate their responses to Defendants' motions in limine. Plaintiffs expect that Defendants will introduce evidence regarding the TVT and the long safe use of polypropylene in the human body, and this evidence is intended to rebut Defendants assertions

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	not at issue in this case as described above. As such, any testimony regarding the IFU or warnings related to the TVT line of products is irrelevant and inadmissible. These designations are also subject to Defendants' MIL regarding MDRs and anecdotal adverse event reports and Defendants' MIL regarding prejudicial company documents and emails. These general objections apply to each of the below designated lines of testimony. These discussions and exhibits also post-date Plaintiff's implant and are irrelevant for that reason as well. Additional specific objections are further set forth below.		regarding same. This evidence has been admitted over Defendant's objections in multiple Prolift trials.
9:7-9:11			
12:7-12:18		12:19-13:8	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
18:4-18:6		18:7-10	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Def.'s Objections	Def.'s Counters	Plaintiff Response/Objection
24:20-26:7			
32:23-33:19	Lack of foundation/personal knowledge; outside the scope; this witness was not employed by Ethicon at the time TVT and TVT-O were launched, so she cannot speak as why Ethicon put those products on the market.		Witness offered testimony in her capacity and understanding as an Ethicon employee.
34:11-34:15	Same as above.		Same as above.
34:17-34:17	Same as above.	34:19-35:3 35:12-18	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
41:24-42:19			
66:17-66:21			
66:23-66:23		67:7-10	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
72:5-72:8	401; 403; involves complications not alleged by Plaintiff in this case; lack		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	of foundation; lack of personal knowledge.		as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
72:18-72:22	Same as above.		Same as above.
72:24-72:24	Same as above.		Same as above.
73:1-73:2	Same as above.		Same as above.
78:18-79:1	Calls for improper expert opinion testimony.	80:11-14 80:16-81:16	Witness is offering her knowledge as a fact witness in her capacity as Medical Director employed by Ethicon Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
82:25-84:7	Same as above.		Same as above.
86:21-87:12	Same as above.		Same as above.
87:14-87:14	Same as above.		Same as above.
107:4-107:15	401; 403; 407; this testimony and exhibit (3321) involves complications not at issue in this case.	107:16-20	Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>what the “ordinary consumer” would contemplate, including “ordinary knowledge common to the community”</p> <p>Further, Plaintiff objects to Defs.’ counterdesignation because it violates the Court’s Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due “two days after plaintiff’s submission,” ECF 193 at p. 2.</p>
108:1-108:4			
108:17-109:18	401; 403; 407; this testimony and exhibit (3321) involves complications not at issue in this case; calls for improper expert opinion testimony.		<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants’ in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the “ordinary consumer” would contemplate, including “ordinary knowledge common to the community”</p> <p>Witness is offering her knowledge as a fact witness in her capacity as Medical Director employed by Ethicon</p> <p>Plaintiffs contend this is not a subsequent remedial measure, but if it is, if falls under an exception to 407 in that it is offered for impeachment of disputed facts, and to show feasibility of precautionary measures</p>
110:20-111:3	Same as above.	110:12-16	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
111:5-111:6	Same as above.		Same as above.
112:4-112:8	Same as above.		Same as above.
112:10-113:10	Same as above.		Same as above.
114:3-114:24	Same as above.		Same as above.
115:8-115:20	Same as above.		Same as above.
116:8-116:10	Same as above.		Same as above.
116:12-116:14	Same as above.		Same as above.
118:6-118:13	Same as above; also, argumentative.		Same as above.
118:15-118:18	Same as above.		Same as above.
118:20-118:21	401; 403; 407; this testimony and exhibit (3322) involves complications not at issue in this case; calls for improper expert opinion testimony.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>This is not expert testimony. Witness is offering her knowledge as a fact witness in her capacity as Medical Director employed by Ethicon.</p> <p>Plaintiffs contend this is not a subsequent remedial measure, as no actual changes were made as a result of these discussions, but if it is, it falls under an exception to 407 in that it is offered for impeachment of disputed facts, and to show feasibility of precautionary measures.</p>
118:25-121:14	Same as above.		Same as above.
121:16-122:12	Same as above.		Same as above.
122:14-122:17	Same as above.		Same as above.
122:19-122:24	Same as above.		Same as above.
123:1-123:22	Same as above.		Same as above.
124:4-125:17	Same as above.		Same as above.
125:19-125:20	Same as above.		Same as above.
139:7-139:9	Same as above.		Same as above.
139:11-139:13	Same as above.		Same as above.
141:3-141:14	Same as above.		Same as above.
141:17-141:18	Same as above.		Same as above.
142:22-143:15	Same as above.	142:1-9	Same as above.
143:17-143:23	Same as above.		Same as above.
145:2-145:6	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
149:2-149:5	Same as above.		Same as above.
149:7-149:8	Same as above.		Same as above.
149:10-149:13	Same as above.		Same as above.
149:15-149:17	Same as above.		Same as above.
150:2-150:14	Same as above.		Same as above.
150:16-150:19	Same as above.		Same as above.
150:21-151:23	Same as above.		Same as above.
154:4-154:9			
155:1-155:23	401; 403; 407; this testimony and exhibit (3322) involves complications not at issue in this case; calls for improper expert opinion testimony.		Same as above.
155:25-155:25	Same as above.		Same as above.
157:8-157:13	Same as above.		Same as above.
164:6-164:8	401; 403; this testimony involves complications not at issue in this case; calls for improper expert opinion testimony.		Same as above.
164:10-164:10	Same as above.	164:12-14 164:16-24	Same as above.
166:13-166:17	Same as above.		Same as above.
166:19-166:19	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
166:21-167:4	Same as above.		Same as above.
167:6-167:7	Same as above.		Same as above.
177:25-178:5	401; 403; 407; this testimony and exhibit (3322) involves complications not at issue in this case; calls for improper expert opinion testimony.		Same as above.
178:7-178:11	Same as above.		Same as above.
178:13-178:22	Same as above; also, calls for hearsay within hearsay.		<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>This is not expert testimony. Witness is offering her knowledge as a fact witness in her capacity as Medical Director employed by Ethicon.</p> <p>Plaintiffs contend this is not a subsequent remedial measure, as no actual changes were made as a result of these discussions, but if it is, it falls under an exception to 407 in that it is offered for impeachment of disputed facts, and to show feasibility of precautionary measures.</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
178:24-179:9	Same as above; also, hearsay.		Same as above.
180:5-180:8	Same as above; also, hearsay.		Same as above.
180:10-181:7	Same as above; also, hearsay.		Same as above.
181:9-181:16	Same as above; also, hearsay.		Same as above.
181:18-181:20	Same as above.		Same as above.
182:4-182:6	Same as above; also, hearsay.		Same as above.
182:8-182:11	Same as above; also, hearsay.		Same as above.
183:7-183:13	Same as above; also, hearsay.		Same as above.
183:15-184:2	Same as above; also, hearsay.		Same as above.
184:4-184:11	Same as above; also, hearsay.		Same as above.
184:13-184:14	Same as above; also, hearsay.		Same as above.
184:16-184:24	Same as above; also, hearsay.		Same as above.
185:1-185:4	Same as above; also, hearsay.		Same as above.
186:12-186:19	Same as above.		Same as above.
187:16-187:20	Same as above.		Same as above.
188:4-190:12 (ending at	401; 403; 407; this testimony and exhibit (3324) involves		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
"Reactions")	complications not at issue in this case; calls for improper expert opinion testimony.		
190:23-191:18	Same as above.		Same as above.
191:20-191:21	Same as above.		Same as above.
191:23-192:6	Same as above.		Same as above.
192:8-192:8	Same as above.		Same as above.
192:10-193:4	Same as above.		Same as above.
196:8-196:13	Same as above.		Same as above.
196:16-196:19	Same as above.		Same as above.
196:21-197:7	Same as above.		Same as above.
198:25-199:19	Same as above.		Same as above.
201:3-201:7	Same as above.		Same as above.
201:9-201:9	Same as above.		Same as above.
201:11-201:24	Same as above.		Same as above.
202:1-202:10	Same as above.		Same as above.
Meng Chen, MD, Ph.D., 10/30/13			
216:14-217:8			
219:5-219:15	401; 403; calls for hearsay.		This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p>
219:17-219:18	Same as above.		Same as above.
219:20-219:23	Same as above.		Same as above.
219:25-219:25	Same as above.		Same as above.
220:14-220:18	Same as above.		Same as above.
220:20-220:20	Same as above.		Same as above.
221:10-221:16	Same as above.		Same as above.
221:18-221:19	Same as above.		Same as above.
222:14-222:22	Same as above.		Same as above.
222:24-223:7	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
223:22-224:2	Same as above; also, involves complications not claimed by Plaintiff in this case.		<p>Same as above.</p> <p>In addition, Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
224:4-224:7	Same as above; also, involves complications not claimed by Plaintiff in this case.		Same as above.
224:15-224:21	Same as above; also, involves complications not claimed by Plaintiff in this case.		Same as above.
225:3-225:6			
225:18-225:22	401; 403; hearsay within hearsay.		Same as above.
225:24-226:8	Same as above.		Same as above.
226:11-226:19	Same as above.		Same as above.
226:21-227:4	Same as above.		Same as above.
227:16-227:21	Same as above; also, involves complications not alleged by the Plaintiff in this case.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
227:23-227:24	Same as above; also, involves complications not alleged by the Plaintiff in this case.	228:14-21 229:9-25 230:2-6 230:8-18	<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>This is not expert testimony. Witness is offering her knowledge as a fact witness in her capacity as Medical Director employed by Ethicon.</p> <p>Plaintiffs contend this is not a subsequent remedial measure, as no actual changes were made as a result of these discussions, but if it is, it falls under an exception to 407 in that it is offered for impeachment of disputed facts, and to show feasibility of precautionary measures.</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
232:7-232:12	Same as above; also, involves complications not alleged by the Plaintiff in this case.		Same as above.
232:14-232:14	Same as above; also, involves complications not alleged by the Plaintiff in this case.		Same as above.
232:16-232:21	Same as above.		Same as above.
232:23-232:24	Same as above.		Same as above.
233:8-233:12	Same as above.		Same as above.
233:14-233:14	Same as above.		Same as above.
235:12-235:21	401; 403; 407; this testimony and exhibit (3325) involves complications not at issue in this case; hearsay within hearsay.		Same as above.
236:13-237:23	Same as above.		Same as above.
239:14-240:11	Same as above.		Same as above.
240:13-240:13	Same as above.		Same as above.
240:15-240:21	Same as above.		Same as above.
241:8-241:17	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
241:19-241:19	Same as above.		Same as above.
244:19-244:23	401; 403; 407; this testimony involves complications not at issue in this case; hearsay within hearsay; calls for improper expert testimony.		Same as above.
244:25-245:1	Same as above.		Same as above.
245:22-245:23	Same as above.		Same as above.
245:24-246:7	Same as above.		Same as above.
246:9-246:9	Same as above.		Same as above.
246:11-246:13	Same as above.		Same as above.
246:15-246:17	Same as above; also, inappropriate legal standard.		Same as above.
246:19-246:20	Same as above; also, inappropriate legal standard.		Same as above.
247:8-247:24	401; 403; 407; this testimony and exhibit (3325) involves complications not at issue in this case; hearsay within hearsay.		Same as above.
248:1-248:2	Same as above.		Same as above.
248:4-248:4	401; 403; 407; this testimony and exhibit (3326) involves complications not at issue in this case; hearsay within hearsay.		Same as above.
248:8-249:3	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
250:11-250:14	Same as above.		Same as above.
250:18-250:24	Same as above.		Same as above.
251:1-251:4	Same as above.		Same as above.
252:19-253:5	Same as above.		Same as above.
253:7-253:9	Same as above.		Same as above.
254:3-254:12	Same as above.		Same as above.
254:14-254:16	Same as above.		Same as above.
254:18-254:21	Same as above.		Same as above.
254:23-254:23	Same as above.		Same as above.
254:25-255:4	Same as above.		Same as above.
263:23-264:8	401; 403; this testimony and exhibit (3328) is irrelevant to the claims at issue in this case.	264:14-265:9	Same as above.
265:10-265:14	Same as above.		Same as above.
265:23-266:8	Same as above.		Same as above.
266:10-266:11	Same as above.		Same as above.
266:19-266:25	401; 403; hearsay within hearsay.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
267:2-267:11	Same as above.		Same as above.
267:13-267:13	Same as above.		Same as above.
293:15-293:25	Impermissible opinion question to a fact-witness regarding what Ethicon should/should not do when presented with hypothetical situations. Lack of foundation; assumes facts not in evidence.		Same as above.
310:5-310:7	401; 403; this testimony and exhibit (3333) involves an adverse event report regarding a patient not at issue in this case; hearsay within hearsay.		Same as above.
310:10-311:22	Same as above.		Same as above.
314:19-314:21			
		315:6-317:14 318:15-20 319:1-6 319:8 319:10-325:13 326:18-21 326:24-327:7 327:9-13 327:16-17 327:21-22 327:24-328:6 328:8-10 328:12-18 328:21-23 328:25-329:6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		330:17-19 332:22-333:2 333:4-12 333:15 333:22-334:3 334:5-9 334:11-17 334:19 335:13-16 335:18 346:5-347:7 347:10 347:21-348:4 348:24-349:10 349:12-19 349:22-350:3 353:10-12 353:14-17 353:19-20 354:20-23 355:1	

Scott Ciarrocca

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Scott Ciarrocca 03/29/12			
11:12-11:13			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
15:2-15:5		14:12-16 15:6-23	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
16:14-17:4			
17:8-17:11		17:12-14	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
17:15-17:25			
23:4-23:6		23:7-9	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
45:18-45:23			
45:24-46:4		46:5-12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
46:13-46:16			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
46:18-46:18			
62:3-62:8		60:23-61:13	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
62:20-62:23	Lack of foundation; lack of personal knowledge; calls for improper expert opinion.		This witness was the lead engineer in charge of the Prolift. Defendants have designated him as a non-retained expert in this matter. This is not expert testimony, but testimony of the witness in his capacity as lead engineer. His knowledge, as well as his lack of knowledge, is relevant.
62:25-63:2	Same as above.		Same as above.
63:4-63:6	Same as above.		Same as above.
63:8-63:8	Same as above.		Same as above.
70:19-70:24			
70:25-71:3			
71:5-71:8			
71:10-71:13			
71:15-71:20			
71:22-72:2			
72:3-72:6			
72:8-72:11			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
72:13-72:17			
72:19-72:20			
72:24-73:8			
99:20-100:2			
100:4-100:7			
100:9-100:16			
100:18-100:20			
152:7-152:23	This testimony and exhibit (617) involves the clinical expert report which implicates FDA evidence and foreign regulatory evidence and is subject to MILs.		Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine.
153:11-153:23	Same as above.		Same as above.
153:24-154:4	Same as above.		Same as above.
154:6-154:20	Same as above; also, argumentative.		Same as above.
156:17-156:20	Same as above; also, argumentative.		Same as above.
156:22-156:22	Same as above; also, argumentative.		Same as above.
239:19-239:25	401; 403; this testimony and exhibit (620) involves complications which are not alleged by the Plaintiff in this case; further, the emails contain hearsay within hearsay from non-		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	Ethicon employees and improper expert opinions.		<p>plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p>
240:11-241:20	Same as above; also, calls for speculation; lack of foundation.		Same as above.
251:15-251:21	401; 403; this testimony and exhibit (621) involves complications which are not alleged by the Plaintiff in this case; further, the emails contain hearsay within hearsay from non-Ethicon employees and improper expert opinions.		Same as above. This is not expert testimony, but testimony and statements of company employees who were in charge of the design of the Prolift.
252:20-252:25	Same as above.		Same as above.
253:8-254:4	Same as above.		Same as above.
254:6-254:7	Same as above.		Same as above.
254:20-255:2	Same as above.		Same as above.
303:10-303:17	Lack of foundation; lack of personal knowledge; mischaracterizes the	302:21-24 303:1-4	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	evidence; assumes facts not in evidence; argumentative.		<p>This witness was the lead engineer in charge of the Prolift. Defendants have designated him as a non-retained expert in this matter. This is not expert testimony, but testimony of the witness in his capacity as lead engineer. His knowledge, as well as his lack of knowledge, is relevant.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
356:6-356:11			
357:2-357:6			
357:8-357:10			
365:10-365:13			
365:19-365:23		368:2-5 368:15-16	<p>Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p> <p>Not necessary for completeness, undue delay, 403, 611(a).</p>
366:2-366:22			
366:23-367:1			
367:3-367:5			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
369:14-369:16			
369:18-369:20			
369:22-369:25			
370:2-370:2			
Scott Ciarrocca 03/30/12			
421:19-421:23	401; 403; testimony and exhibit (625) involve complications not alleged by Plaintiff in this case; include hearsay within hearsay.		<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p>
423:2-423:14	Same as above.		Same as above.
425:5-425:13	Same as above.		Same as above.
425:14-425:16	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
425:18-425:21	Same as above.		Same as above.
427:1-427:12	Same as above.		Same as above.
427:13-427:15	Same as above.		Same as above.
428:5-428:9	Same as above.		Same as above.
428:11-428:11	Same as above.		Same as above.
450:3-450:8			
450:10-450:16	Lack of foundation; lack of personal knowledge; calls for improper expert opinion; argumentative.		This witness was the lead engineer in charge of the Prolift. Defendants have designated him as a non-retained expert in this matter. This is not expert testimony, but testimony of the witness in his capacity as lead engineer. His knowledge, as well as his lack of knowledge, is relevant.
450:18-451:1	Same as above.		Same as above.
451:3-451:3	Same as above.		Same as above.
467:15-467:22	Lack of foundation; lack of personal knowledge; calls for improper expert opinion; argumentative; attorney testifying; assumes facts not in evidence; argumentative.		Same as above. This is a proper hypothetical.
467:24-467:25	Same as above.		Same as above
471:13-471:19			
476:21-476:25			
507:21-507:23	401; 403; testimony and exhibit (625) involve complications not		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	alleged by Plaintiff in this case; lack of foundation; lack of personal knowledge; calls for improper expert opinion.		<p>as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>This witness was the lead engineer in charge of the Prolift. Defendants have designated him as a non-retained expert in this matter. This is not expert testimony, but testimony of the witness in his capacity as lead engineer. His knowledge, as well as his lack of knowledge, is relevant.</p>
509:7-509:17	Same as above.		Same as above.
509:19-509:19	Same as above.		Same as above.
511:9-511:14	Same as above.		Same as above.
511:16-511:24	Same as above; also, argumentative.		Same as above.
512:1-512:1	Same as above.		Same as above.
630:15-630:19			
Scott Ciarrocca 12/03/12			
709:23-710:16			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
711:1-711:3			
711:5-711:5			
711:13-711:18		711:19-712:1 712:3 713:20-22	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
714:8-714:20			
727:2-727:6	This testimony and exhibit (3001) involves the clinical expert report which implicates FDA evidence and foreign regulatory evidence and is subject to MILs.		Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine.
727:17-728:2	Same as above; also 401/403.		Same as above.
728:22-729:5	Same as above; also, calls for speculation.		Same as above.
729:25-730:11	Same as above.		Same as above.
730:13-730:14	Same as above.		Same as above.
753:20-21			
767:1-767:21			
771:24-772:5			
783:18-783:21			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
783:23-783:24			
784:15-785:5			
786:8-786:12			
786:14-786:16			
		750:7-751:1 752:13-751:1 753:5-8 753:11-753:19 754:11-754:22 755:1-755:17 755:24-756:6 756:7-757:24 759:11-759:12 759:15-760:3 760:15-761:19 761:21-764:17 764:18-764:20 764:23-764:23 764:25-765:14 766:6-768:12 768:13-769:3 769:6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Katrin Elbert

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Katrin Elbert 12/23/2014			
256:23-257:3		12:5 – 12:6 29:23 – 31:4 44:4 – 45:11 46:1 – 46:16 49:12 – 49:14 50:5 – 50:10 50:19 – 51:19 247:23 – 249:4 249:16 – 252:11 252:15 – 256:18 257:8 – 257:11 257:23 – 258:6 258:11 – 258:13 344:20 – 347:20 348:9 – 351:3 351:6 – 351:7 351:9 – 351:24 352:1 – 353:5 353:7 – 354:4 354:6 – 354:12 354:14 – 354: 20 354:22 – 354:22 366:20-366:22 366:24-367:3 367:5-367:7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		368:24 – 369:1 369:3 – 370:6 370:12 – 370:13 370:15 – 370:17 371:4 – 371:7 371:9 – 371:9 371:18 – 372:4 372:6 – 372:9 372:16 – 372:17 372:19 – 373:25 374:2 – 374:7 430:9-430:12 430:14-431:5 431:24 – 432:25	

Amanda Clark, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Amanda Clark, MD 06/06/21			
6:11-21			
7:11-8:10			
9:20-10:4			
10:15-13:3		14:10-16:2	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
26:10-16		26:17-27:15	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
28:17-21	Lack of foundation. Vague.	Conditional counter: 28:2229:20	Testimony does not indicate lack of foundation Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
28:22-29:10	Vague with precedent 28:1721.	29:9-20	Witness did not indicate the question was not understood. Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
40:5-13			
49:2-6 (ending at "placed")	Incomplete designation. Only the question is designated.	49:6-19	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
50:21-51:6			
51:19-52:2			
66:1-11			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
67:22-68:4			
68:11			
73:17-25			
77:11-22			
78:5-19			
86:20-87:4			
99:25-100:8			
103:20-104:21			
106:14-16		108:3-6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
107:8-10			
107:19-108:2			
108:7-109:6			
110:14-18			
114:5-16		114:17-115:6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
115:11-116:8			
120:8-121:7	120:16-121:2: Cumulative.		Not cumulative.
121:11-25			
123:21-25		124:1-5; 124:7-25	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
125:8-126:3	Leading.		Leading is permitted on cross-examination
126:11-21			
134:14-135:6	Lack of foundation. Calls for speculation.	135:8-18	Foundation was established. Witness did not indicate she was speculating. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
164:17-165:9			
165:13-15			
168:9-11	Rule 401. Non-responsive.		Answer was responsive to the question

Daniel Elliott, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Daniel Elliott, MD 11/21/15	See Defendants' general objection to this entire deposition as an improper designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this designated testimony if the general objections are overruled.		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to provide specific objections. Any objections served at a later date should be stricken as untimely.
7:20-16:9			
16:21-20:19			
21:11-28:12			
28:15-29:18			
30:8-32:20			
33:13-33:24			
34:18-35:13			
36:23-39:12			
39:21-41:17			
41:23-42:4			
42:7-42:12			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
43:4-44:7			
46:14-48:15			
48:18-53:23			
54:2-54:10			
54:20-55:9			
55:13-56:16			
56:19-58:11			
58:13-59:4			
59:6-60:11			
60:15-63:19 (stop at "contact")			
63:20-63:22 (start at "when")			
64:2-65:11			
66:13-67:24			
68:23-69:21			
70:2-71:24			
72:1-72:22			
72:23-73:17			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
73:18-75:10			
75:11-75:16			
75:19-76:1			
76:11-80:6			
80:11-82:24			
83:3-83:10			
83:14-84:5			
84:8-84:24			
85:3-86:14			
86:17-90:3			
90:5-90:16			
90:23-91:21			
92:1-92:15			
92:16-93:13			
93:21-95:16			
95:17-95:20			
95:21-96:17			
96:18-97:14			
97:18-97:23			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
98:3-98:8			
98:15-98:23			
99:1-99:13			
99:15-100:2			
100:5-101:7			
101:11-101:12			
101:13-102:5			
102:6-102:12			
102:24- 103:21			
103:22- 104:18			
104:19- 104:22			
104:24-105:4			
105:6-106:9			
106:21-107:12			
107:13-107:16			
107:18-108:13			
108:16- 108:18			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
109:4-109:6			
109:8-109:12			
109:21-110:16			
110:24-113:14			
113:15-114:3			
114:12-115:5			
115:6-116:8			
116:9-119:8			
119:9-119:20			
120:4-121:3			
121:11-122:3			
122:4-124:3			
124:5-124:12			
124:14-127:2			
130:22-131:9			
131:12-131:14			
131:18-132:5			
132:7-132:16			
132:18-133:7			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
133:9-133:16			
133:18-134:10			
134:13-134:18			
135:8-135:15			
135:17-135:23			
136:1-136:11			
136:13-136:22			
137:1-137:2			
137:5-137:17			
137:19-138:3			
139:2-139:4			
139:6-139:15			
139:17-140:3			
140:5-140:17			
140:19-141:11			
141:14-141:18			
141:20-142:15			
142:17-143:13			
143:16-143:20			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
144:1-145:17			
145:19-146:20			
146:24-147:5			
147:7-147:11			
147:13-148:4			
148:8-148:22			
149:3-150:7			
150:10-150:19			
151:12-152:12			
152:16-153:6			
153:9-153:18			
153:22-154:14			
155:10-155:19			
155:22-155:24			
156:2-156:4			
156:6-156:13			
156:15-156:21			
156:23-157:2			
157:11-157:14			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
157:16-157:20			
157:23-158:1			
158:3-158:11			
158:15-158:17			
158:19-159:2			
159:4-159:24			
160:1-161:15			
161:18-162:5			
162:7-163:20			
163:24-164:7			
164:10-167:11			
167:15-167:22			
167:24-167:24			
168:20-169:2			
169:5-170:5			
170:16-171:2			
171:10-171:17			
171:20-171:22			
172:13-172:16			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
172:19-173:1			
173:4-173:18			
173:21-174:9			
174:12-174:14			
174:16-174:18			
174:22-175:2			
175:5-175:9			
175:11-175:21			
175:23-176:1			
176:3-176:9			
176:12-176:15			
176:18-176:20			
176:22-177:5			
177:7-177:9			
177:11-177:24			
304:17-305:1			
305:4-305:23			
306:1-307:5			
307:8-307:13			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
307:14-308:1			
308:16-309:2			
309:11-309:19			
310:17-310:21			
310:23-311:4			
311:15-311:17			
311:19-311:19			
311:21-312:9			
312:12-312:12			
312:14-312:19			
312:22-312:22			
313:1-313:7			
313:10-313:15			
313:17-313:17			
317:3-317:6			
318:11-318:17			
318:20- 318:20			
319:8-319:8			
319:10-319:19			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Daniel Elliott, MD 08/31/19	See Defendants' general objection to this entire deposition as an improper designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this designated testimony if the general objections are overruled.		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to provide specific objections. Any objections served at a later date should be stricken as untimely.
14:7-15:1			
15:2-16-17			
16:21-17:11			
17:19-19:3			
24:14-25:6			
26:21-27:8			
33:1-33:8			
33:21-34:13			
52:1-53:11			
54:2-54:6			
54:12-54:21			
58:16-58:22			
61:10-61:21			
63:7-63:21			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
64:1-64:16			
69:22-70:7			
71:9-74:21			
78:16-79:16			
80:15-81:10			
81:14-83:15			
86:5-86:15			
89:15-90:2			
93:19-95:6			

Jeffrey B. Everett

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Jeffrey B. Everett 05/15/12			
17:1-17:3			
17:6-17:7			
17:9-17:11			
17:13-17:15		17:17-18 17:20-24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
71:24-72:5			
72:11-73:5			
73:7-73:9			
73:21-74:1	401; 403; Plaintiff's counsel attempting to use professional code of ethics (exhibit 731) to set legal standard as it relates to company; the Court will instruct on the legal standard.		Witness clearly established foundation as he testified he was familiar with document. The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims and state of mind. The defendants' own argument shows that there is no 403 issue as the Court will instruct the jury as to the proper legal standard.
74:3-74:7	Same as above.		Same as above.
113:12-113:16	Argumentative; assumes facts not in evidence; lack of foundation; lack of personal knowledge.		Same as above.
113:18-113:20	Same as above.		Same as above.
119:7-119:11	Same as above.		Same as above.
135:5-135:17	401; 403; Plaintiff's counsel attempting to use company credo to set legal standard; the Court will instruct on the legal standard.		Same as above.
138:20-138:23 (beginning with "You")	401; 403; Plaintiff's counsel attempting to use various professional and other standards to		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	suggest legal standard; the Court will instruct on the legal standard.		
138:25-139:1	Same as above.		Same as above.
139:3-139:8	Same as above.		Same as above.
139:10-139:19	Same as above.		Same as above.
155:12-155:18			
162:16-162:24 (strike "Okay")			
197:12-198:7	Exhibit (1033) post-dates Plaintiff's implant and includes complications not alleged by Plaintiff in this case; 401; 403.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
208:1-208:15			
230:9-230:12			
Jeffrey B. Everett 10/19/12			
451:12-451:16			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
451:24-452:2			
452:4-452:8			
452:10-452:13			
452:15-452:21			
465:14-465:22			
503:16-505:2	Lack of foundation; lack of personal knowledge; confusing and misleading to jury; improper hypothetical; improper expert testimony from a lay witness.		This is not expert testimony, but testimony of the witness in his capacity as an engineer for the company. His knowledge, as well as his lack of knowledge, is relevant.
505:6-505:22	Same as above.		Same as above.
506:24-507:4	Same as above.		Same as above.
507:6-508:8	Same as above.		Same as above.
508:10-508:19	Same as above.		Same as above.
556:11-556:17	Same as above.		Same as above.
557:5-557:9	Same as above.		Same as above.
558:21-558:23	Same as above.		Same as above.
558:25-559:4	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
563:17-563:25	Same as above; also, argumentative and assumes facts not in evidence.		Same as above.
564:2-564:7	Same as above.		Same as above.
564:17-564:22	Same as above.		Same as above.
564:24-565:1	Same as above.		Same as above.
568:21-569:3	Same as above.		Same as above.
569:5-569:7	Same as above.	569:15-18 569:20-570:8	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
570:10-570:15		569:15-18 569:20-570:8	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
571:22-571:25			
572:2-572:6			
572:10-572:20			
572:22-572:23			
573:1-573:8			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
592:15-592:22	Lack of foundation; lack of personal knowledge; confusing and misleading to jury		This is not expert testimony, but testimony of the witness in his capacity as an engineer for the company. His knowledge, as well as his lack of knowledge, is relevant.
592:25-593:3	Lack of foundation; lack of personal knowledge; confusing and misleading to jury		This is not expert testimony, but testimony of the witness in his capacity as an engineer for the company. His knowledge, as well as his lack of knowledge, is relevant.
		607:5-612:11 612:17-613:6 613:9-11 613:15-614:22 614:25-615:16 619:19-621:10 621:13-24 622:1-24 626:5-8 626:11-12 628:16-19 631:5-25	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Jim Hart, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Jim Hart, MD 09/17/13			
17:1-17:4			
18:8-19:2	401/403; outside the scope – questioning the witness about his own personal opinions regarding		This witness was the Chief Medical Officer in charge of the Prolift. This is not expert testimony, but testimony of the

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	medical device manufacturers and how they should act. The court will instruct the jury on the standard of care; not the witness's own opinions.		witness in his capacity as Chief Medical Officer. His knowledge, as well as his state of mind, is relevant.
21:13-21:16			
24:9-24:15			
31:2-31:8			
32:11-32:21			
33:1-33:7			
34:5-34:16			
37:10-37:15		37:2-9 37:21-38:9	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
38:10-38:15			
40:17-40:20			
41:1-41:5			
41:13-42:6	401/403		
43:13-43:18			
44:17-44:21		44:6-11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
45:11-45:23	401/403; hearsay: the witness's HR file and performance review (Exhibit 1298) are irrelevant to any issues in this case.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims as they show state of mind.
54:8-54:19			
55:6-55:13	401/403; outside the scope; calls for improper expert opinion; improper hypothetical; lack of foundation; assumes facts not in evidence; subject to MIL re foreign regulatory evidence.		<p>Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine.</p> <p>This witness was the lead engineer in charge of the Prolift. Defendants have designated him as a non-retained expert in this matter. This is not expert testimony, but testimony of the witness in his capacity as lead engineer. His knowledge, as well as his lack of knowledge, is relevant.</p>
56:22-57:9	401/403; hearsay: the witness's HR file and performance review (Exhibit 1298) are irrelevant to any issues in this case.	57:17-25	<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims as they show state of mind.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
58:9-58:22	401/403; outside the scope; calls for improper expert opinion; improper hypothetical; lack of foundation; assumes facts not in evidence.		This witness was the Chief Medical Officer in charge of the Prolift. This is not expert testimony, but testimony of the witness in his Chief Medical Officer. His knowledge, as well as his lack of knowledge and state of mind is relevant.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
63:16-63:21		62:22-63:13	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
64:18-65:4	401/403; outside the scope; calls for improper expert opinion; improper hypothetical; lack of foundation; assumes facts not in evidence.		This witness was the Chief Medical Officer in charge of the Prolift. This is not expert testimony, but testimony of the witness in his Chief Medical Officer. His knowledge, as well as his lack of knowledge and state of mind is relevant.
88:22-89:2	401/403; exhibit referenced (1299) is irrelevant performance review of this witness; outside the scope; calls for improper expert opinion; lack of foundation; assumes facts not in evidence; misleading (lacking context); compound; implicates MIL re withdrawal of device.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims as they show state of mind.</p> <p>This witness was the Chief Medical Officer in charge of the Prolift. This is not expert testimony, but testimony of the witness in his Chief Medical Officer. His knowledge, as well as his lack of knowledge and state of mind is relevant.</p> <p>Testimony does not indicate withdraw of device. Defendant's objection mischaracterizes testimony.</p>
89:5-89:7	Same as above.	90:9-24	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
93:8-93:24	401/403; subject to MIL re regulatory evidence and MIL re withdrawal of device.	92:11-93:7	<p>Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
96:6-96:17	Same as above.	97:12-21	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
99:5-99:9	Same as above.		Same as above
99:15-99:18	Same as above.		Same as above
102:24-103:2	401/403; exhibit discussed postdates Plaintiff's implant; 407; lack of foundation; lack of personal knowledge; outside the scope.		<p>Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine.</p> <p>Plaintiffs contend this is not a subsequent remedial measure, but if it is, it falls under an exception to 407 in that it is</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			offered for impeachment of disputed facts, and to show feasibility of precautionary measures
103:8-103:11	Same as above.		Same as above
103:12-103:19	Same as above.		Same as above
104:7-104:14	Same as above.		Same as above
117:6-117:12			
120:2-120:25	401; 403; hearsay medical literature; improper expert testimony from fact witness.		Witness is a medical doctor and chief medical officer for the company. Testimony is admissible under 803(18).
122:21-124:12	401; 403; exhibit discussed (1304) post-dates Plaintiff's implant; hearsay within hearsay.		
129:3-129:25	Same as above.		
137:11-137:23	401; 403; hearsay medical literature		Witness is a medical doctor and chief medical officer for the company. Testimony is admissible under 803(18).
140:24-141:2	401; 403; exhibit discussed (1304) post-dates Plaintiff's implant; hearsay within hearsay.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
174:1-174:12			
183:17-184:14	401/403; discussing hearsay medical literature that post-dates Plaintiff's implant.		Witness is a medical doctor and chief medical officer for the company. Testimony is admissible under 803(18).
184:18-185:3	401/403; exhibits (1308 and 1309) post-date Plaintiff's implant; hearsay medical literature		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims. Testimony is admissible under 803(18).
185:10-185:14	Same as above		Same as above.
188:22-190:6	Same as above		Same as above.
200:21-201:11	401; 403; exhibit discussed (1310) post-dates Plaintiff's implant.		Same as above.
204:24-205:6	401; 403; exhibit discussed (1311) post-dates Plaintiff's implant.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
205:15-205:19	Same as above.		Same as above.
207:3-207:9	Same as above.		Same as above.
211:2-211:20	401; 403; exhibit discussed (1312) post-dates Plaintiff's implant.	211:23-212:2	<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
212:3-212:9	Same as above; also, involves complications not alleged by Plaintiff in this case.		<p>Same as above,</p> <p>Also, Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
212:20-213:2	Same as above; also, involves complications not alleged by Plaintiff in this case.	213:3-5	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
215:4-216:4	Same as above; also, involves complications not alleged by Plaintiff in this case.		Same as above.
219:6-219:13	Same as above; also, involves complications not alleged by Plaintiff in this case; also lack of foundation/assumes facts not in evidence.		Same as above.
219:15-219:15	Same as above; also, involves complications not alleged by Plaintiff in this case; also lack of foundation/assumes facts not in evidence.		Same as above.
219:17-219:25	Calls for improper expert opinion; assumes facts not in evidence and lack of foundation.		Same as above.
220:1-220:4	Same as above; also, involves complications not alleged by Plaintiff in this case.		Same as above.
220:6-220:10	Same as above; also, involves complications not alleged by Plaintiff in this case.		Same as above.
221:2-221:12	Same as above.		Same as above.
221:15-222:6	Same as above; also, 403.		Same as above.
222:7-222:17	Same as above; also, 403.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
222:19-222:20	Same as above.		Same as above.
226:22-227:1		227:2-4	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
228:16-229:2	Calls for improper expert opinion; assumes facts not in evidence.		This is not an expert opinion, this is testimony from the company's Chief Medical Officer in his capacity as a fact witness. This is a proper hypothetical question.
229:9-229:20	Same as above.		Same as above.
229:22-229:22	Same as above.		Same as above.
234:13-235:5	Lack of foundation; lack of personal knowledge; mischaracterizes the evidence; assumes facts not in evidence; improper hypothetical.		Same as above.
235:10-235:16	Mischaracterizes the evidence; assumes facts no in evidence; improper hypothetical; attempting to assert company credo as legal standard.		Same as above.
238:20-239:8	Lack of foundation; lack of personal knowledge; mischaracterizes the evidence.	239:10-13 239:15-23	Same as above.
245:6-245:9	Lack of foundation; mischaracterizes the evidence; argumentative; involves complications not alleged by Plaintiff in this case.		Same as above. Also, Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further,

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
245:12-245:12	Same as above.		Same as above.
245:15-245:17	Same as above.		Same as above.
252:6-252:14	Lack of foundation; mischaracterizes the evidence; argumentative; 401.	250:9-21 252:16-21	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
258:24-259:16			
Jim Hart, MD 09/18/13			
281:3-281:9			
282:16- 282:20			
283:11-283:15	401; 403; regards complications not alleged by Plaintiff in this case.	283:18-22 283:24-284:5 284:11-13	Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
		284:15-284:24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
284:21-285:4	Same as above.		Same as above
287:3-287:8	Calls for an expert opinion regarding urogynecological issues, but Plaintiff's own affirmative designations show this witness is not an expert in that field of medicine. See 9/17/13 deposition at 16:11-25	285:23-286:5	<p>Same as above. This is the Chief Medical Officer for the company.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
287:12-287:12	Same as above.		Same as above
287:20-287:22			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
311:23-312:4		311:7-10 311:12-14	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
320:11-320:18			
343:1-343:4	401; 403; subject to MIL regarding FDA evidence and MIL regarding withdrawal of product from market; post-dates Plaintiff's implant.		Plaintiff adopts and incorporates their responses to Defendants MILs
343:23-344:12	Same as above; also, lack of foundation and calls for speculation.		Same as above. This is not speculation, this is testimony by the Chief Medical Officer for the company
344:13-344:20	Same as above.		Same as above.
347:20-347:24	Same as above.	351:10-21	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
531:20-531:24			
534:16-535:18	401; 403; lack of foundation; lack of personal knowledge; assumes facts not in evidence; compound; misleading; argumentative.		Same as above.
568:21-569:7	401; 403; subject to MIL regarding FDA evidence and MIL regarding		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	withdrawal of product from market; post-dates Plaintiff's implant.		
Jim Hart, MD 12/20/13			
613:6-613:21	401; 403; sales brochure regarding product not at issue in this case.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims.
614:1-615:3	Same as above.		Same as above
615:17-615:22			
616:7-616:11			
628:14- 628:25	401; 403; exhibits (1340 and 1341) involve clinical study regarding product not at issue in this case.		Same as above.
629:13- 629:25	Same as above.		Same as above.
630:6-630:8	Same as above.	632:3-12 632:15-22 634:15-635:7	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
643:24-644:6	Same as above; also relates to complications not alleged by this Plaintiff.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
648:2-648:12	Same as above.	648:13-17 648:19-20	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
649:10-650:20	Same as above.		Same as above.
664:23-665:4		665:5-7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
667:8-667:12			
668:2-668:23		668:24-669:4	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
669:5-669:18			
670:24-671:4			
671:10-671:20		672:13-21	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
673:16-673:21 (Note: Stop after "suture" on Line 21)		673:21-23	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
675:18-675:23			
676:15-676:23			
680:14-680:21	<p>401/403 – this testimony relates to allegations of mesh being “cytotoxic”, which Plaintiff is not claiming as an injury in this case.</p> <p>Lack of foundation/personal knowledge; impermissibly calls for expert opinions.</p>		<p>“cytotoxic” is not an “injury”, It’s a condition of the mesh that causes injury.</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants’ in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the “ordinary consumer” would contemplate, including “ordinary knowledge common to the community”</p> <p>Does not call for expert opinion, this is the testimony of the company’s Chief Medical Officer regarding his knowledge or lack thereof.</p>
682:9-682:11	Same as above.		Same as above.
699:11-699:21			
703:23-704:6	<p>401/403 – this testimony relates to allegations of mesh being “cytotoxic”, which Plaintiff is not claiming as an injury in this case.</p> <p>Lack of foundation/personal knowledge; impermissibly calls for expert opinions.</p>		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
712:23-713:5	Same as above.		Same as above.
713:17-713:24	Same as above.		Same as above.
718:11-718:18	Same as above.		Same as above.
722:9-722:14	Same as above; also, irrelevant TVT evidence; relates to instances of TVT erosions.		Same as above. Mesh is Prolift is the same material in the same transvaginal space as TVT.
729:14-729:17			
729:19-729:19			
738:1-738:12	401; 403; testimony and exhibit (1333) involves an internal company policy related to investigator-initiated studies which post-dates Plaintiff's implant.		
738:23-739:2	Same as above.		
800:3-800:8	Testimony relates to IFU for TVT-Secur, a product not at issue in this case. 401 ;403.	799:11-25	Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
928:3-928:3	Exhibit (D1) post-dates Plaintiff's implant and includes complications not at issue in this case. 401; 403.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
928:9-928:16	Same as above.		Same as above.
928:25-929:11	Same as above.		Same as above.
929:13-929:13	Same as above.		Same as above.
929:16-930:9	Same as above.		Same as above.
931:2-931:5	Same as above; also, lack of foundation, lack of personal knowledge, assumes facts not in evidence.		Same as above. This is the Chief Medical Officer for the company. His knowledge and lack of knowledge is relevant.
931:7-931:8	Same as above; also, lack of foundation, lack of personal knowledge, assumes facts not in evidence.		Same as above.
933:4-933:9			
933:11-933:11 (stop after "Yes.")		933:11-12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		810:13-14 811:5-812:13 817:18-817:25 819:5-8 819:11-820:7 821:9-17 822:4-14 822:20-20 822:23-823:14 823:17-826:21 826:23-827:9 827:14-828:5 828:8-8 828:10-14 828:17-17 828:19-24 829:1-12 829:14-18 829:21-830:6 830:11-20 830:23-831:9 831:22-24 832:1-12 832:14-833:1 833:7-14 833:16-16 833:19-834:7 834:12-13 834:15-19 835:5-6 835:8-9 837:1-3 837:5-22 838:7-18	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		838:20 840:7-841:3 841:5-6 841:9-10 841:12-17 841:19 842:7-8 842:10 843:13 843:15-22 844:1-2 844:4 844:9-11 844:13-845:9 845:11-23 845:25 846:3-6 846:8 846:10-14 846:16 846:25-848:4 848:6-11 848:19-849:5 849:7-10 849:12 849:14-16 849:18-25 851:25-852:2 852:5-11 852:14-853:5 853:21-854:5 854:20-855:8 855:10 856:6-10	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		858:18-859:19 859:22-24 860:3-4 864:23-865:17 865:19-24 865:25-866:9 866:22-25 867:2-9 867:15-868:4 868:6-868:18 868:20-22 871:4-6 871:8-21 871:23-25 872:2-2 872:19-873:2 873:4-8 873:10 874:8-18 874:20-875:1 875:3-3 875:12-19 875:22-876:1 876:3-3 882:5-17 882:19-19 882:23-25 883:2-13 884:24-885:2 885:4-5 885:7-12 885:15-20 886:4-16 886:18-18	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		891:22-25 892:2-2 898:13-20 898:22-22 904:12-14 904:23-905:1 905:3-3 905:7-15 905:17 905:19-906:8 906:10 906:20-23 907:8-10 907:12-16 907:18-21 907:23 907:25-908:4 908:6-6 908:16-17 908:19-25 909:2-2 911:17-18 911:20-23 911:25-25 915:18-25 916:2-7 916:9-17 916:19-19 917:7-13 962:16-19 962:21-963:1 963:8-18 963:20-24 964:1	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		964:4-8 964:10-11 964:22-965:1 965:4-12 965:15-16 965:18 966:3-7 966:9-14 966:17-20 966:22 980:2-4 980:6-7	

Piet Hinoul, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Piet Hinoul, MD 04/05/12			
11:4-11:6			
20:10-20:13			
32:20-33:8	401/403: this testimony relates to an off-color joke that the witness made in a 2009 email regarding pessaries; subject to MIL regarding irrelevant company documents	33:9-35:6	<p>Highly probative as to Defendants' state of mind and punitive damages claims. See Plaintiff's response to Defendants' MIL.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
48:8-48:15	Same as above.		Same as above.
49:22-50:4	Same as above.	50:5-15	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
52:8-52:16	Same as above.	52:17-53:4	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
53:6-53:20	Same as above.		Same as above.
54:3-54:10	Same as above.		Same as above.
54:16-54:21	Same as above.		Same as above.
94:10-94:12	401.403; complications not alleged by Plaintiff in this case.	94:13-17 94:22-95:8 96:20-97:10	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
97:11-97:18	Same as above.		Same as above.
99:16-99:25	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
190:11-190:18		190:20-24 191:2-20 191:24-193:6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
199:14-199:16			
199:18-199:24			
200:9-200:12		200:18-21 200:25-201:2 201:4-201:9	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
228:19-230:17	<p>Subject to MIL regarding company document ("permanently destroyed vagina" email).</p> <p>Hearsay adverse event report from a non-Ethicon employee. Also, 401/403, because Plaintiff has not shown substantial similarity. Postdates Plaintiff's implant. Also involves complications not alleged by Plaintiff in this case. And argumentative.</p>		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims. Plaintiffs adopt and incorporate their response to Defendant's MIL on this issue.</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company.</p> <p>Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Event is substantially similar to injuries in this case. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
231:16-231:21	Same as above.	232:8-16	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
232:18-232:22	Same as above.		Same as above.
233:4-233:10	Same as above.	233:12-18	Same as above.
244:3-244:17	Same as above.		Same as above.
315:25-316:4	Hearsay adverse event report (exhibit 662) from a non-Ethicon employee. Also, 401/403, because Plaintiff has not shown substantial similarity. Also, post-dates Plaintiff's implant and involves complications not alleged by Plaintiff in this case.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
316:8-316:12	Same as above.		Same as above.
317:3-317:9			
317:11-317:11			
317:13-318:18	Hearsay adverse event report (exhibit 662) from a non-Ethicon employee. Also, 401/403, because Plaintiff has not shown substantial similarity. Also, post-dates Plaintiff's implant and involves complications not alleged by Plaintiff in this case.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
319:9-319:17	Same as above.		Same as above.
319:20-319:23	Same as above.		Same as above.
Piet Hinoul, MD 04/06/12			
365:8-365:9		365:15-366:3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
366:4-366:15			
375:18-375:22			
376:17-376:24		376:7-10 376:12-15	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
382:9-383:8	401/403; includes complications not alleged by this Plaintiff; Vague. Lacks context.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community" Witness did not indicate he did not understand the question. Question is not vague.
383:12-383:25	Same as above; also, lack of foundation and lack of personal knowledge. Assumes facts not in evidence.	384:2-14	This witness was the Medical Doctor in charge of the Prolift. Defendants have designated him as a non-retained expert in this matter and a 30(b)(6) witness for medical affairs for the company. His knowledge, as well as his lack of knowledge, is relevant. This is a proper hypothetical question.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
420:11-421:9			
480:8-480:13			
507:22-508:2	401/403; includes complications not alleged by this Plaintiff.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
527:21-529:2	401/403; post-dates Plaintiff's implant; lack of foundation; lack of personal knowledge.	529:3-16	<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>This witness was the Medical Doctor in charge of the Prolift. Defendants have designated him as a non-retained expert in this matter and a 30(b)(6) witness for medical affairs for the company. His knowledge, as well as his lack of knowledge, is relevant. This is a proper hypothetical question.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
530:19-530:25	Hearsay within hearsay regarding statements from non-Ethicon employees (exhibit 670); post-dates Plaintiff's implant; 401/403; includes complications not alleged by this Plaintiff.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p>
534:14-534:19		533:9-13 533:15-23 533:25-534:10	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
534:22-534:23 (ending with "stated there")		534:23-24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
539:11-539:16	Hearsay within hearsay regarding statements from non-Ethicon employees (exhibit 670); post-dates Plaintiff's implant; 401/403; includes complications not alleged by this Plaintiff.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
539:18-540:10	Same as above.		Same as above.
542:23-543:2	Same as above.	543:3-6 543:8-25	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
544:1-544:11	Same as above.	543:8-21 544:22-544:23	Same as above.
545:6-545:20	Same as above.		
546:3-546:8	Same as above.	546:9 546:11-17	Same as above.
546:18-546:25		547:13-14	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
562:7-562:20		562:21- 563:5 563:7-9	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
564:11-564:24	Hearsay within hearsay regarding statements from non-Ethicon employees (exhibit 1029); postdates Plaintiff's implant; 401/403;	566:7-19 566:21-567:4	This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	includes complications not alleged by this Plaintiff.		<p>Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
570:4-570:8	Same as above.		Same as above.
570:20-571:1	Same as above.		Same as above.
571:17-572:2	401/403, includes complications not alleged by this Plaintiff; post-dates Plaintiff's implant.	572:3-8	<p>Same as above.</p> <p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p>
572:13-574:9	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
574:10-574:13	Same as above.		Same as above.
574:15-574:17	Same as above.		Same as above.
574:19-574:20	Same as above.		Same as above.
574:22-574:23	Same as above.		Same as above.
575:5-575:18		575:19-581:17	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
582:19-583:1	401/403; post-dates Plaintiff's implant; includes hears within hearsay from a non-Ethicon employee.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p>
583:8-583:13	Same as above.		Same as above.
583:25-584:6	Same as above.	584:14-25	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
585:24-586:12	Same as above.		Same as above.
589:13-590:2	Hearsay within hearsay statements from a non-Ethicon employee; 401/403; post-dates Plaintiff's implant		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p>
590:9-590:15	Same as above.		Same as above.
592:22-591:14	Same as above.		Save as above.
592:3-592:9	Same as above.	592:10-593:17 595:24-596:7	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
646:9-647:4	401/403; post-dates Plaintiff's implant and includes complications not alleged by Plaintiff in this case.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
647:5-647:16	Same as above.		Same as above.
650:8-651:3	Same as above.		Same as above.
Piet Hinoul, MD 09/18/12			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
727:1-727:4		726:7-13 726:15 726:21-25 727:5-8	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
737:5-737:11			
891:2-891:6			
891:8-891:11			
891:13-891:18			
891:20-892:1			
892:3-892:4			
960:13-960:22	401/403; this exhibit (884) is a hearsay literature article used for the purpose of establishing bad character evidence.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims. Testimony is admissible under 803(18).
964:3-965:3	Same as above; also involves complications not alleged by this Plaintiff.		Same as above. Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
966:1-967:2	Same as above.		Same as above.
967:5-967:18	Same as above; also involves complications not alleged by this Plaintiff.	967:19-968:2	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
968:3-368:13	Same as above; also involves complications not alleged by this Plaintiff.		Same as above.
Piet Hinoul, MD 09/19/12			
999:7-999:20	Hearsay adverse event report (exhibit 2002) from a non-Ethicon employee. Also, 401/403, because Plaintiff has not shown substantial similarity.		This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
999:24-1000:20	Same as above.		Same as above.
1000:23-1000:25	Same as above.		Same as above.
1001:2-1001:2	Same as above.		Same as above.
1019:5-1019:25	401/403; powerpoint (exhibit 887) involves complications not alleged by this Plaintiff; post-dates Plaintiff's implant.		<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p>
1020:4-1020:16	Same as above.		Same as above.
1025:17-1025:24	Same as above.		Same as above.
1054:18-1054:24		1055:1-2 1055:4-5	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
1058:22-1058:24		1059:8-12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
1160:17-19	Subject to MIL regarding withdrawal of device.		Plaintiffs adopt and incorporate their responses to Defendants' MILs
1160:21-22 (ending at "reason")	Same as above.	1160:22-23.	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
1064:9-1064:16	Improper hypothetical; assumes facts not in evidence; mischaracterizes the evidence; calls for improper expert opinion.	1062:17-20 1062:22-1063:3	This is a proper hypothetical question. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
1083:13-1083:19	Same as above.	1082:20-1083:2 1083:4-8 1083:21-1084:2 1084:7-14	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
1086:1-1086:10		1086:11-16	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
1086:24-1087:4			
1090:16-1091:3		1089:17-21 1089:23-1090:14	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
1122:18-1122:24	Hearsay literature article. Includes complications not alleged by Plaintiff in this case.	1123:12-19	Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>what the “ordinary consumer” would contemplate, including “ordinary knowledge common to the community”</p> <p>Testimony is admissible under 803(18).</p> <p>Further, Plaintiff objects to Defs.’ counterdesignation because it violates the Court’s Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due “two days after plaintiff’s submission,” ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
1124:2-1124:17	Same as above.	1124:18-1125:1	Same as above.
1125:2-1125:17	Same as above.	1125:18-22 1126:8-9 1126:19-22 1126:25-1127:1	Same as above.
1129:24-1130:16	Same as above.		Same as above.
1131:17-1132:7	Same as above.	1132:8-13	Same as above.
1134:23-1135:2	Same as above.	1135:3-5	Same as above.
1135:13-1135:13	Same as above.		Same as above.
1135:15-1135:18	Same as above.	1136:2-9	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
1137:12-1137:23 (ending with "true")	Same as above; also, incomplete designation.	1137:23-24	Same as above.
1138:3-1138:8	Same as above.	1139:3-10 1139:12-15	Same as above.
1140:25-1141:15	Same as above.	1140:13-24	Same as above.
1144:18-1145:22	Hearsay opinion email (exhibit 894) from a non-Ethicon employee in 2005; 401/403, involves complications not alleged by Plaintiff in this case.	1146:23-1147:11	<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
1147:12-1147:18	Same as above.		Same as above.
1148:19-1149:1	Hearsay literature article (exhibit 895); also, 401/403, involves complications not alleged by Plaintiff in this case.		Same as above.
1156:20-1157:4	Same as above.		Same as above.
1160:17-19	401/403; subject to MIL regarding withdrawal of product from market; argumentative; mischaracterizes the evidence; assumes facts not in evidence; improper hypothetical.	1158:5-9	<p>Same as above. Plaintiffs adopt and incorporate their responses to Defendants' MILs. Question is proper.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
1160:21-22 (ending at "reason")	Same as above; also, incomplete designation.	1160:22-23 1160:25-1161:6 1162:2-14 1166:8-21 1178:20-23 1179:1-5	<p>Same as above. Designation is complete.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
1179:9-1180:2	Same as above.	1179:1-5 1180:7-13 1180:15 1180:17-19	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		1181:3-8	
1191:22-1192:5	401/403: this exhibit (899) and testimony relates specifically to a non-Ethicon employee's mesh erosion data (including of Prosima, a product not at issue in this case), and the witness's opinion regarding same; post-dates Plaintiff's implant.	1193:2-6 1193:8-20	<p>The Prosima uses the exact same mesh as the Prolift. The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
1192:17-1192:25	Same as above.		Same as above.
1193:23-1194:6	Same as above.	1193:2-6 1193:8-11	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
		1194:8-1196:1	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
1199:6-1199:17	Same as above.	1199:22-25	Same as above.
1199:19-1199:20	Same as above.	1200:1-6	Same as above.
1200:21-1201:7	Same as above.		Same as above.
1202:12-1203:9	Same as above.	1203:15-19 1203:21-25	Same as above.
1205:17-1205:24	Same as above.	1205:2-5	Same as above.
1207:20-1208:7	Discussing hearsay literature article.		Testimony is admissible under 803(18).
1265:16-18	Hearsay literature article		Same as above.
1286:7-24	Same as above.		Same as above.
1337:19-1337:23	Same as above.		Same as above.
1338:24-1339:13	Same as above.		Same as above.
1339:15-1340:11	Same as above.		Same as above.
1343:17-1344:2	Same as above; also, discussing complications not alleged by this Plaintiff.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
1344:4-1344:8	Same as above.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
		1249:22-25 1250:9-1252:16 1253:8-25 1254:6-7 1254:10-23 1255:6-1256:2 1256:3-1257:12 1257:21-1258:12 1258:13-1259:21 1260:1-20 1260:24-1261:5 1261:6-1261:18 1262:2-3 1262:6-11 1262:23-1264:1 1264:4 1264:6-14 1265:16-18 1265:19-1266:5 1266:6-9 1266:12-16 1266:18-1267:24 1268:1-8	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		1268:11-19 1268:24-1269:16 1269:19-1270:8 1270:11 1270:22-24 1271:1-17 1271:19-21 1272:8-1273:17 1273:19-1274:12 1274:21-23 1274:25-1275:2 1275:17-19 1275:22-1276:17 1276:18-1278:2 1278:15-1279:2 1279:5-1280:6 1280:9-1281:11 1281:14-1282:20 1282:22-1283:5 1283:16-1284:14 1284:16-1285:16 1285:18-1286:3 1286:5 1286:25-1288:3 1288:5-1288:20 1289:7-1290:23 1291:1-3 1291:4-1292:2 1292:4-1292:20 1292:23-1293:1 1293:3-1293:20 1294:1-1294:11 1294:16-1294:22 1294:24-1295:13 1295:17-1296:3	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		1296:5-13 1296:15- 1299:6 1299:9-10 1301:1-1302:6 1302:8-1303:7 1303:9- 1304:13 1304:16 1304:18-1308:9 1308:10-12 1308:13-1309:19 1309:21-1312:4 1312:11-1312:14 1312:16-1313:6 1314:4-1314:25 1316:13-1317:9 1317:17-1317:19 1317:21-1318:1 1318:3-18 1318:20-1319:2 1319:5-12 1319:14-1320:08 1320:21-24 1321:1-19 1322:10-11 1322:13-1323:4 1323:7-9 1323:11-1323:25 1324:5-1325:11 1325:15-1325:23 1331:18-23 1331:25-1332:9 1332:11-14 1332:17-1333:12 1333:14-25	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		1334:2-14 1334:16-1335:19 1336:5-11 1336:12-14 1343:17-1344:2 1346:20-1347:9 1347:11-1347:18 1347:25-1348:21 1348:22-1349:1 1349:4-22 1349:24-1350:2	
Piet Hinoul 06/27/13			
443:3-443:10	401/403; powerpoint (exhibit 818) post-dates Plaintiff's implant		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
443:14-444:9	Same as above.		Same as above.
447:5-447:16	Same as above.	448:4-8	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
488:14-488:24	401/403; document (exhibit 721) post-dates Plaintiff's implant; subject to MIL regarding withdrawal of product from market.		Same as above. Plaintiffs adopt and incorporate their responses to Defendants' MILs
488:25-490:1	Same as above.		Same as above.
490:13-17	Same as above.	490:18-491:3 491:16-25	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
492:20-25 (ending with "correct")	Same as above.	492:25-493:2	Same as above.
493:6-493:15	Same as above.		Same as above.
493:17-493:17	Same as above.	493:19-22 493:24	Same as above.
498:24-499:20 (ending with "yes")	Same as above.	499:20-21	Same as above.
513:20-513:23	CER for product not at issue in this case (exhibit 722); 401/402;	514:23-515:4	Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise,

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	postdates Plaintiff's implant; subject to MIL regarding FDA evidence; subject to MIL regarding foreign regulatory evidence; subject to MIL regarding withdrawal of the device		<p>implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine. Product is relevant as it has same transvaginal polypropylene mesh.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Same as above.</p>
515:21-516:2	Same as above.		Same as above.
517:4-517:11	Same as above.		Same as above.
517:12-518:15	Same as above; also includes complications not alleged by this Plaintiff.		<p>Same as above.</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
520:2-520:10	Same as above; also includes complications not alleged by this Plaintiff.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
520:13-520:25	Same as above; also includes complications not alleged by this Plaintiff.	521:11-25 522:23-523:3	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
523:24-524:5	Same as above; also includes complications not alleged by this Plaintiff.		Same as above.
524:7-524:7	Same as above; also includes complications not alleged by this Plaintiff.		Same as above.
524:12-524:25	Same as above; also includes complications not alleged by this Plaintiff.		Same as above.
525:3-525:21	Same as above; also includes complications not alleged by this Plaintiff.		Same as above.
528:1-528:3	Same as above; also includes complications not alleged by this Plaintiff.		Same as above.
528:5-528:11	Same as above; also includes complications not alleged by this Plaintiff.	528:12-18	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
528:20-528:25	Same as above; also includes complications not alleged by this Plaintiff.		Same as above.
529:3-529:4 (ending at "yes")	Same as above; also includes complications not alleged by this Plaintiff; also, incomplete designation.	529:4	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
718:2-719:17	Hearsay within hearsay; exhibit (733) and testimony subject to MIL regarding PA consulting group; post-dates Plaintiff's implant; 401/403.		Testimony establishes that Ethicon adopted the findings in this report. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
719:19-719:20	Same as above.		Same as above.
		704:19-706:3 706:6-709:12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		711:12 -712:5 712:6 -713:3 713:5 -713:7 713:11 -713:18 722:13-22	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Joerg Holste, Ph.D.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Joerg Holste, Ph.D. 12/14/12			
8:14-8:19			
23:3-23:6			
28:7-28:12			
31:1-31:9			
31:23-32:8			
32:10-32:10			
63:7-63:14 (strike "I am still")		63:14-18	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
66:4-66:12	Lack of foundation/outside the scope – questioning the witness about other employees' roles at Ethicon.		Nothing improper about asking the witness based on his personal knowledge.
66:14-66:15	Same as above.		Same as above
71:25-72:15			
72:17-72:21	401/403; involves complications not alleged by Plaintiff in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
72:23-73:4	Same as above.		Same as above.
83:7-83:13	Lack of foundation; asking the witness to opine on Ethicon's state of mind; lack of personal knowledge regarding position of non-Ethicon employees.		Nothing improper about asking the witness regarding his personal knowledge.
83:15-83:16	Same as above.		Same as above.
83:18-83:18	Same as above.		Same as above.
87:7-87:13	Same as above; also, irrelevant as it relates to hernia repair.		Same as above. Relevant to claims and defenses in case.
87:15-87:15	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
178:19-179:2	Email discusses hearsay within hearsay regarding statements and opinions from non-Ethicon employees. 401/403.		This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
179:9-179:11	Same as above.		Same as above. Question is proper.
185:21-186:2	Same as above; misleading; lacks context; improper hypothetical.		Same as above.
186:11-186:15	Same as above; misleading; lacks context; improper hypothetical.		Same as above.
186:17-186:17	Same as above; misleading; lacks context; improper hypothetical.		Same as above.
Joerg Holste, Ph.D. 12/15/12			
232:9-232:22	401/403; involves complications not alleged by Plaintiff in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
233:5-233:17	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
233:19-233:19	Same as above.		Same as above.
234:10-235:5	Same as above.		Same as above.
265:18-265:24	Same as above.		Same as above.
267:8-267:11	Same as above.		Same as above.
268:16-268:19	Same as above.		Same as above.
277:15-277:24	Same as above.		Same as above.
279:7-279:12	Exhibit (1299) and testimony postdate Plaintiff's implant; 401/403; involves complications not alleged by Plaintiff in this case.		Same as above. The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
280:21-281:6	Same as above.		Same as above.
283:19-284:4	Same as above.		Same as above.
284:22-285:1	Same as above; also, hearsay medical literature.		Same as above. Not hearsay, foundation for question. Even if hearsay, testimony is admissible under 803(18).
285:3-285:3	Same as above; also, hearsay medical literature.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
290:4-290:17	Same as above; also, hearsay medical literature.		Same as above.
290:19-290:19	Same as above; also, hearsay medical literature.		Same as above.
291:4-291:20	Same as above; also, hearsay medical literature.		Same as above.
294:1-294:2	Same as above; also, hearsay medical literature.		Same as above.
294:4-294:4	Same as above; also, hearsay medical literature.		Same as above.
413:7-413:17	Hearsay medical literature (1302 and 1303).		Same as above.
414:11-414:14	Same as above.		Same as above.
414:21-415:4	Same as above.		Same as above.
416:5-416:6	Same as above.		Same as above.
417:9-417:18	Same as above.		Same as above.
417:22-418:8	Same as above; also, lack of foundation.		Same as above. Foundation is proper.
418:12-418:22	Same as above.		Same as above.
420:10-420:16	Same as above.		Same as above.
420:22-421:3			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
425:12-425:21	Hearsay medical literature.		Same as above.
425:24-425:24	Same as above.		Same as above.
430:9-431:3	Same as above.		Same as above.
431:18-432:5	Same as above.		Same as above.
432:12-432:20	Same as above.		Same as above.
433:13-433:18	Same as above.		Same as above.
433:20-433:20	Same as above.		Same as above.
440:17-440:24	Email (exhibit 1305) is hearsay within hearsay from a non-Ethicon employee.		This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
441:21-442:4			
442:6-442:13			
442:15-442:15			
478:20-478:25			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
479:14-479:17			
479:19-479:19			
480:2-480:12			
500:6-500:12			
		443:9-444:21 444:24-449:25 450:1-8 451:12-14 451:16-20 451:23 452:1-24 453:1-455:6 456:3-12 456:15-458:7 459:16-21 460:8 460:20-461:13 461:16-19 461:24-25 462:5-462:18 462:25-463:6 463:10-13 463:18-20 463:22-465:23 466:2-469:23 469:25-470:24 471:2-471:20 472:3-6 472:10-12 472:14-24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		473:2-23 474:3-17 474:23-478:10	
Joerg Holste 07/29/13			
7:25-8:1			
37:14-37:21			
47:14-47:20	401/403; testimony and exhibit (1298) involves a product not at issue in this case and post-dates Plaintiff's implant.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
49:22-50:2	Hearsay literature article.		Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
50:17-50:19	Same as above.		Same as above.
50:22-50:25	Same as above.		Same as above.
51:3-51:12	Same as above.		Same as above.
55:22-56:1			
56:4-56:5			
56:8-56:10			
56:13-56:13			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
56:15-56:19			
56:21-56:21			
59:2-59:3	Hearsay medical literature.		Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
59:10-60:5	Same as above.	60:8-9	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
61:3-61:9	Same as above.		Same as above.
61:13-61:14	Same as above.		Same as above.
65:18-66:25	Hearsay medical literature.		Same as above.
68:22-69:20	Same as above.		Same as above.
69:23-69:24	Same as above.		Same as above.
70:1-70:2	Same as above.	74:3-8 74:11-12	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission,"

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
70:4-70:4	Same as above.	74:3-8 74:11-12	Same as above.
76:12-76:21	Same as above.	74:3-8 74:11-12	Same as above.
76:25-77:2	Same as above.	74:3-8 74:11-12	Same as above.
95:4-95:11	Same as above.		Same as above.
		<u>7/30/2013 Deposition</u> 525:15-528:25 532:23-533:3 533:2-535:2 538:6-541:8 546:1-12 547:9-16 562:19-565:13 575:20-576:12 576:14-577:9 577:11-578:17 578:19-579:1 579:30-580:1	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Scott Jones

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Scott Jones 11/15/11			
9:18-9:19			
16:6-16:9			
17:7-17:15			
128:13-128:25			
152:9-153:4	Lack of foundation; lack of personal knowledge; calls for expert medical opinion from marketing fact witness.		Witness did not indicate lack of personal knowledge. Testimony is fact testimony
153:5-153:18	Same as above.		Same as above.
153:19-154:10	Same as above; also relates to complications not alleged by Plaintiff in this case.		Same as above. Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
154:11-154:18			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
155:23-156:1			
220:14-220:19	Lack of foundation; lack of personal knowledge; calls for expert medical opinion from marketing fact witness.		Same as above.
268:1-269:10	Testimony and exhibit (53) involve hearsay within hearsay from nonEthicon employees; also, post-dates Plaintiff's implant. Lack of foundation; lack of personal knowledge. Also involves complications not alleged by this Plaintiff.		Same as above. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
269:11-269:23	Same as above.		Same as above.
270:11-270:18	Same as above.		Same as above.
271:3-271:6	Same as above.		Same as above.
272:7-272:12	Same as above.		Same as above.
272:13-272:23	Same as above.		Same as above.
273:14-274:15	Same as above.		Same as above.
274:2-274:15	Same as above.	275:7-12 275:14-276:1	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
277:13-278:1	Same as above.		Same as above.
278:2-278:8	Same as above.		Same as above.
280:14-281:2	Same as above.	278:24- 279:2 279:4-9	Same as above.
Scott Jones 11/16/11			
471:23-472:4	Lack of foundation; lack of personal knowledge; calls for speculation; calls for improper expert opinion.		Same as above.

Howard C. Jordi, Ph.D.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Howard C. Jordi, Ph.D. 10/30/13	See Defendants' general objection to this entire deposition as an improper designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this designated testimony if the general objections are overruled.		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to provide specific objections. Any objections served at a later date should be stricken as untimely.
5:8-5:9			
5:23-6:2			
6:7-6:11			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
13:5-13:12			
13:15-13:20			
14:5-15:22			
16:10-17:20			
22:14-22:21			
22:22-23:10			
24:21-25:18			
28:10-28:25			
31:21-31:25			
33:23-34:13			
37:3-37:14			
38:4-39:16			
39:23-40:3			
40:14-40:16			
41:2-41:23			
43:17-43:21			
44:3-44:10			
45:10-45:18			
46:20-47:13			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
65:10-66:5			
67:11-67:24			
77:22-78:8			
78:9-78:11			
78:14-79:19			
88:7-89:8			
90:10-91:8			
104:6-104:21			
110:16-111:12			
131:22-134:17			
137:15-137:20			
139:18-139:21			
139:23-139:24			
142:6-142:18			
145:5-145:12			
145:24-146:9			
156:21-156:24			
157:2-157:14			
157:20-158:3			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
288:23-289:15			
289:18-290:6			
289:9-289:14			
296:18-296:24			
297:7-297:23			
302:7-302:8			
302:11-302:23			

Gene Kammerer

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Gene Kammerer 10/17/12			
9:16-9:24			
15:3-15:15			
17:18-17:22			
27:12-27:20	Testimony and exhibit (1181) contains hearsay within hearsay from non-Ethicon employees; involves complications not alleged by Plaintiff in this case.		This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
28:3-30:10	Same as above.		Same as above
38:23-39:8			
39:18-40:20			
43:24-44:8	Testimony and exhibit (3005) contains hearsay within hearsay from non-Ethicon employees; involves complications not alleged by Plaintiff in this case.		Same as above.
45:8-45:20	Same as above.		Same as above.
46:13-48:7	Same as above.	48:12-15 48:17-22	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
50:25-52:7		53:3-21	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
66:6-66:11	Testimony and exhibit (486) contains hearsay within hearsay from non-Ethicon employees; involves complications not alleged by Plaintiff in this case.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
66:22-67:8	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
68:3-68:11	Same as above.		Same as above.
70:11-71:13	Same as above.		Same as above.
72:21-73:9	Same as above.		Same as above.
73:10-73:23	Same as above.		Same as above.
75:8-77:2	Same as above.	77:4-9 77:11-12 78:3-6 78:8-9 78:11-16 78:18-24	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
79:1-79:10	Same as above.		Same as above.
86:3-86:23	Same as above.		Same as above.
87:13-87:18	Same as above.	87:2-11	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
87:21-87:23	Same as above.		Same as above.
88:14-88:20	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
88:22-88:24	Same as above.		Same as above.
96:23-98:13	Testimony and exhibit (1184) contains hearsay within hearsay from non-Ethicon employees; involves complications not alleged by Plaintiff in this case.		Same as above.
104:18-104:25	Same as above.		Same as above.
105:10-105:22	Same as above. Also, lack of foundation; calls for improper expert opinion; assumes facts not in evidence.		Same as above. Not an expert opinion. Fact witness testimony.
106:7-106:15	Same as above.		Same as above.
112:3-112:14	Same as above.	112:15-19 112:21-22	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
113:19-114:6	Same as above.	114:7-11 114:20-22 114:24-115:13	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
137:15-138:3	Testimony and exhibit (1188) contains hearsay within hearsay from non-Ethicon employees;		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	involves complications not alleged by Plaintiff in this case.		
138:12-139:8	Same as above.		Same as above.
139:17-140:23	Same as above.		Same as above.
141:20-142:15	401/403		Relevant and probative.
143:21-144:13	Same as above; calls for speculation.		Same as above. Witness is not speculating.
145:11-145:15			
147:25-148:6	401/403; document (exhibit 1190) post-dates Plaintiff's implant and involves complications not alleged by this Plaintiff.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
149:16-149:25	Same as above.	150:1-3 150:5-13	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
150:24-151:4			
151:16-151:23			
168:1-168:25	Testimony and exhibit (486) contains hearsay within hearsay from non-Ethicon employees; involves complications not alleged by Plaintiff in this case.	169:2-6	<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
		153:1-2 153:12-154:15	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		154:16-155:14	were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
		156:5-7 157:18-19 158:3-20 158:23-159:25 160:16-163:11 163:17-164:7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).
Gene Kammerer 06/12/13			
38:2-38:6	401; 403.		Relevant and Provative.

Aaron Kirkemo, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Aaron Kirkemo, MD 04/18/12			
10:15-10:23			
15:8-15:13			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
31:8-31:25	Testimony and exhibit (652) are subject to motion in limine regarding certain company documents (CD-ROM as pessary email). 401; 403.		Plaintiffs adopt and incorporate their responses to Defendants' MILs
33:20-33:23	Same as above.		Same as above.
35:17-36:1	Same as above.		Same as above.
36:20-37:1 (strike line 20 after "Q.")	Same as above.		Same as above.
39:14-40:2	Same as above.	41:25-42:2	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
43:13-44:11	Same as above.		Same as above.
44:22-44:23	Same as above.		Same as above.
44:25-45:12	Same as above.		Same as above.
45:14-45:18	Same as above.		Same as above.
47:2-47:7 (strike line 5)	Same as above; also, argumentative.		Same as above. Question is proper of a medical director.
		263:14-267:1 267:8-272:2 272:16-278:21	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).
Aaron Kirkemo, MD 01/06/14			
9:3-9:6			
279:5-279:9	Irrelevant TVT evidence; Irrelevant (FRE 401) and substantially more prejudicial than probative (FRE 403) regarding Boston Scientific's ProteGen polyester/collagen mesh, which has been excluded in the MDL.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims.
279:11-279:11	Same as above.		Same as above.
279:14-279:14 (end after "correct")	Same as above.		Same as above.
280:11-280:12	Same as above.		Same as above.

Dr. Uwe Klinge

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Dr. Uwe Klinge	See Defendants' general objection to this entire deposition as an improper		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
11/10/14	designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this designated testimony if the general objections are overruled.		provide specific objections. Any objections served at a later date should be stricken as untimely.
10:3-10:8			
10:16-17:15			
17:24-20:7			
20:13-21:21			
21:24-25:2			
25:9-25:14			
25:17-25:24			
26:2-26:24			
27:11-28:19			
28:21-28:22			
29:3-29:14			
31:20-33:1			
33:2-33:3			
33:10-34:2			
34:8-34:17			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
35:11-35:15			
35:18-36:16			
36:18-36:18			
36:20-36:20			
36:23-37:19			
37:23-38:10			
38:12-39:2			
39:5-39:24			
40:3-41:22			
42:13-56:15			
56:19-57:13			
57:16-58:10			
58:12-58:12			
58:15-65:15			
65:21-67:4			
67:7-70:7			
70:11-70:12 (Note: 70:12 ending at "1156")			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
70:19-74:11 (Note: 74:11 ending at "3361")			
74:24-76:3			
76:16-76:22			
76:24-77:16			
77:19-78:4			
78:6-79:2			
79:9-81:16			
81:22-81:22			
82:2-82:5			
117:7-117:20			
186:5-186:10			
186:19-187:10			
192:9-192:16			
192:23-194:19			
195:5-195:17			
195:23-196:2			
196:7-196:19			
197:8-197:16			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
199:21-199:22			
200:10- 200:23			
201:11-202:21			
203:4-203:19			
204:2-204:12			
204:14-204:15			
204:17- 204:20			
204:22- 204:22			
205:17-206:7			
206:22-207:2			
207:4-207:4			
207:6-207:10			
207:12-207:12			
208:5-209:5			
209:9-209:17			
209:22-211:5			
218:11-218:13			
219:6-219:7			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Dr. Uwe Klinge 11/04/15	See Defendants' general objection to this entire deposition as an improper designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this designated testimony if the general objections are overruled.		
9:18-10:23			
95:3-95:15			
96:20-97:1			
97:24-98:9			
99:3-99:11			
99:25-100:6			
104:1-104:5			

Bryan Lisa

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Bryan Lisa 12/19/11			
13:7-13:12			
16:2-16:11			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
53:6-53:13			
55:14-55:19			
56:10-56:22			
62:13-62:20	Lack of foundation; calls for speculation.		Foundation established. No indication of speculation.
63:5-63:8			
63:10-63:10			
63:12-63:18	Lack of foundation; calls for speculation; assumes facts not evidence; mischaracterizes the evidence.		Foundation established. No indication of speculation. Characterization of evidence is a matter for the jury.
63:20-63:21	Same as above.		Same as above
71:25-72:3			
72:10-72:14			
72:16-72:22		72:23-73:7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
294:6-294:12	Lack of foundation; calls for speculation; assumes facts not evidence; mischaracterizes the evidence.		Foundation established. No indication of speculation. Characterization of evidence is a matter for the jury.
294:14-294:14	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Bryan Lisa 12/20/11			
352:15-352:24	Lack of foundation; calls for speculation; calls for improper medical expert testimony from a regulatory witness; assumes facts not evidence; mischaracterizes the evidence.		Foundation established. No indication of speculation. Testimony within scope of witnesses' employment and knowledge. Characterization of evidence is a matter for the jury.
353:1-353:3	Same as above.		Same as above.
353:5-353:6	Same as above.		Same as above.
353:8-353:10	Same as above.		Same as above.
388:13-388:24			
389:3-389:6			
389:10-389:14			
533:4-533:10	401; 403; testimony and exhibit (169) post-date Plaintiff's implant; subject to MIL regarding FDA evidence		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims. Testimony does not implicate FDA evidence.
537:10-537:13			
537:20-538:6	Calls for speculation; mischaracterizes the evidence; 403.	538:7-16	Foundation established. No indication of speculation. Testimony within scope of witnesses' employment and

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>knowledge. Characterization of evidence is a matter for the jury and should be addressed on cross examination.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
539:13-539:18	401; 403; testimony and exhibit (169) post-date Plaintiff's implant; subject to MIL regarding FDA evidence; also calls for speculation.		Same as above.
539:20-540:4	Same as above.		Same as above.
580:24-583:10	Lack of foundation; calls for improper medical expert testimony from regulatory witness.		Same as above. Testimony is within scope of knowledge of witness
583:12-583:12	Same as above.		Same as above.
590:23-591:2	Subject to MIL regarding postimplant changes to IFU.		Plaintiffs adopt and incorporate their responses to Defendants' MILs
591:8-591:10	Same as above.		Same as above.
591:23-592:4	Same as above.		Same as above.
592:6-592:12	Same as above.		Same as above.
		623:5-12 628:4-19	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Vincent Lucente, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Vincent Lucente, MD 06/10/14			
16:19-16:20			
26:19-26:24			
36:22-37:3			
37:13-37:17			
189:11-189:19			
189:20-190:1			
380:25-381:10			
381:13-381:13			
381:15-382:8			
382:10-382:10			
425:3-426:7			
426:8-426:13	401/403 – this testimony and exhibit (2068) relate to Dr. Lucente's alleged involvement in getting the term "experimental" removed from the 2007 ACOG practice bulletin's		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	description of mesh kits. This testimony is irrelevant in this case because Plaintiff's implant occurred before the term "experimental" was removed from the ACOG bulletin, so this evidence of Dr. Lucente's alleged involvement could not have affected Plaintiff. Outside the scope; Post-dates Plaintiff's implant.		implant does not make it inadmissible or irrelevant to those claims.
426:16-426:24	Same as above.		Same as above.
427:6-428:7	Same as above.		Same as above.
435:10-436:07	Same as above.		Same as above.
436:10-436:22	Same as above.		Same as above.
436:24-437:1	Same as above.		Same as above.
437:17-438:19	Same as above.		Same as above.
438:22-439:1	Same as above.		Same as above.
439:3-439:8	Same as above.		Same as above.
459:22-460:10	401; 403.		Testimony is relevant and probative.
460:21-22	401; 403.		Testimony is relevant and probative
		<u>June 10, 2014</u> <u>Deposition</u> 386:10-14 387:4-23 388:1-19	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		<p>opwe</p> <p><u>November 2, 2012</u></p> <p><u>Deposition</u></p> <p>364:5-364:11</p> <p>364:16-365:9</p> <p>367:5-367:16</p> <p>367:17-368:1</p> <p>374:14-375:18</p> <p>376:11-376:16</p> <p>382:14-383:13</p> <p>383:15-383:17</p> <p>383:19-385:15</p> <p>387:6-388:10</p> <p>389:18-390:1</p> <p>395:7-395:25</p> <p>397:3-397:11</p> <p>397:15-399:8</p> <p>404:13-404:16</p> <p>404:18-408:3</p> <p>409:22-413:12</p> <p>413:17-413:22</p> <p>413:25-415:15</p> <p>415:18-415:21</p> <p>415:22-415:25</p> <p>418:1-418:5</p> <p>419:2-419:4</p> <p>419:6-420:13</p> <p>421:2-421:5</p> <p>422:12-422:19</p> <p>422:22-423:1</p> <p>423:9-423:11</p> <p>423:13-424:8</p> <p>424:10-424:18</p> <p>424:20-425:5</p>	<p>what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		425:10-425:12 427:7-427:9 427:11-427:23 428:16-429:22 429:24-430:14 430:17-430:19 430:21-431:4 434:21-436:15 436:17-436:19 436:22-437:3 437:5-437:23 438:8-438:22 442:23-442:24 443:3-443:22 443:24-444:6 444:24-445:10 445:14-16 445:18-447:9 453:15-453:17 453:19-454:10 457:9-457:11 457:13-457:21 458:11-459:6 459:13-459:21 460:11-460:16 460:18-460:19 460:23-460:25 461:2-461:3 461:5-461:14 464:10-468:3	

James Mittenthal

Pltf. Desig.	Def.'s Objections	Def.'s Counters	Plaintiff Response/Objection
James Mittenthal 08/13/13			
197:4-197:10	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; argumentative; speculation; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Plaintiffs adopt and incorporate their responses to Defendants' MILs
197:13-197:15	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; argumentative;		Plaintiffs adopt and incorporate their responses to Defendants' MILs TVT hold relevant to provide context to

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
	speculation; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		<p>issues in this case and because it share common developmental history and is the same mesh.</p> <p>Admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p>
197:17-197:19	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; argumentative; speculation; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		
197:22-197:22	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; argumentative; speculation; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.
259:3-259:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; argumentative.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
James Mittenthal 09/25/13			Same as above.
475:4-475:8	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate		Same as above.
475:11-475:13	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	<p>object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.</p>		
475:21-476:1	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in</p>		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	fact released, and Defendants object to admitting testimony that is no longer factually accurate.		
476:2-476:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to reference to other lawsuits.		Same as above.
563:22-564:2	401 (relevance); 403 (unduly prejudicial); 802 (hearsay)		Same as above.
567:18-568:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
568:15-568:18	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
568:20-569:8	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; form		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
569:11-569:13	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; form		Same as above.
569:15-569:18	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; form		Same as above.
599:12-599:17	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to the introduction of testimony regarding Alison London Brown's documents because she separated from the company in 2007, prior to Ethicon's duty to preserve documents relating to Gynemesh PS.		Same as above.
600:5-601:2	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to the introduction of testimony regarding Alison London Brown's documents because she separated from the company in 2007, prior to Ethicon's duty to preserve documents relating to Gynemesh PS		Same as above.
601:4-601:22	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	foundation; form; Defendants object to the introduction of testimony regarding Alison London Brown's documents because she separated from the company in 2007, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT because TVT is a separate product not at issue in this case.		
602:12-602:23	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; form; Defendants object to the introduction of testimony regarding Alison London Brown's documents because she separated from the company in 2007, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT because TVT is a separate product not at issue in this case	603:2-3 603:6-11	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
604:16-605:1	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to the introduction of testimony regarding Alison London Brown's documents because she separated from the company in 2007, prior to Ethicon's	605:2-13	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	duty to preserve documents relating to Gynemesh PS.		
614:13-614:16	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); argumentative; speculation; lack of foundation; Defendants object to the introduction of testimony regarding Charlotte Owens's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS.		Same as above.
615:15-615:23	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to the introduction of testimony regarding Charlotte Owens's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS.		Same as above.
James Mittenthal 02/10/14			Same as above.
696:4-696:11	As to Exhibit T3610: 401 (relevance); 403 (unduly prejudicial); 802 (hearsay)		Same as above.
696:13-697:15	401 (relevance); 403 (unduly prejudicial); 802 (hearsay)		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
697:17-697:19	401 (relevance); 403 (unduly prejudicial)		Same as above.
697:21-698:13	401 (relevance); 403 (unduly prejudicial); misleading; speculation; form		Same as above.
698:15-698:16	401 (relevance); 403 (unduly prejudicial); misleading; speculation; form		Same as above.
698:18-699:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
699:16-700:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
700:12-700:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
700:14-701:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to testimony regarding a general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system		Same as above.
701:12-701:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to testimony regarding a		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system		
701:14-701:24	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; argumentative; form; calls for legal conclusion.		Same as above.
702:2-702:3 strike "albeit"	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form	702:03-702:05 (from "albeit" forward)	Same as above.
702:9-704:13	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
704:17-705:4	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
705:9-706:7	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case;		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	Defendants object to reference to other lawsuits		
706:10-706:11	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
706:13-706:23	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
707:1-707:2	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
707:4-707:8	401 (relevance); 403 (unduly prejudicial); 802 (hearsay);		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		
707:10-707:10	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
707:12-708:6	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
708:9-708:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		
708:13-709:10	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
709:13-709:14	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
709:17-709:22	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
709:24-712:25	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.
713:3-713:4	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	<p>regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.</p>		
713:6-713:10	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in</p>		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	fact released, and Defendants object to admitting testimony that is no longer factually accurate.		
713:15-713:19	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate		Same as above.
713:22-713:24	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product		Same as above.

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
	<p>not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.</p>		
714:1-714:8	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all</p>		Same as above.

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
	prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		
714:11-714:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate		Same as above.
714:14-715:6	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the		

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	<p>introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.</p> <p>As to 715:5-715:6 – attorney client privilege and work product privilege.</p>		
715:14-716:7	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While</p>		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		
716:10-716:11	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	to admitting testimony that is no longer factually accurate		
716:14-716:18	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.
716:20-716:22	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants		Same as above.

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
	<p>object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.</p>		
716:25-717:1	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to reference to other lawsuits</p>		Same as above.
717:6-718:17	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be</p>		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate		
718:20-718:24	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
719:1-719:11	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
719:14-719:14	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
719:16-720:14	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		Same as above.
720:17-720:18	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits		
720:20-721:17	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.
721:20-721:22	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	<p>because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate</p>		
721:24-721:25	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release</p>		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		
722:3-722:3	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.
722:6-722:10	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	<p>conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate</p>		
722:12-722:16	<p>401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be</p>		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		
722:23-723:11	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
723:15-726:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits; Defendants object to testimony regarding the fact that the 2003 TVT legal hold was not released. While that testimony was believed to be accurate at the time of the deposition, Defendants subsequently identified a 2005 legal hold release that was distributed and released all prior TVT holds. The hold release was produced to Plaintiffs. Plaintiffs are aware that the 2003 hold was in fact released, and Defendants object to admitting testimony that is no longer factually accurate.		Same as above.
726:12-726:23	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to testimony regarding a general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system		Same as above.
727:3-728:24	401 (relevance); 403 (unduly prejudicial); 802 (hearsay);		

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	misleading; form; Defendants object to testimony regarding a general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system		
729:2-729:2	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to testimony regarding a general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system		Same as above.
729:6-729:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object to testimony regarding a general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system		Same as above.
731:10-731:17	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form	731:03-731:09	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
731:20-731:24	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
732:1-732:15	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to reference to other lawsuits		Same as above.
732:18-732:19	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to reference to other lawsuits		Same as above.
732:21-732:24	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to reference to other lawsuits		Same as above.
733:5-733:6	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to reference to other lawsuits		Same as above.
733:8-733:11	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; calls for legal conclusion; Defendants object to reference to other lawsuits		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
733:15-734:3	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
734:6-734:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
734:13-734:14	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
734:17-734:17	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
734:19-734:20	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
734:23-734:24	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
735:1-735:4	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
735:7-735:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
735:11-736:5	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; Defendants object		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	to testimony regarding a general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system		
736:7-736:14	401 (relevance); 403 (unduly prejudicial); 802 (hearsay)		Same as above.
736:19-737:9	Same objections as above		Same as above.
741:5-741:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
741:19-742:7	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
742:11-743:3	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
743:6-743:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
743:11-744:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.
744:12-744:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
744:14-744:18	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation		Same as above.
744:22-745:5	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; argumentative		Same as above.
745:9-746:7	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; argumentative		Same as above.
746:10-746:13	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; argumentative		Same as above.
746:15-747:5	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; argumentative		Same as above.
747:9-747:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; argumentative		Same as above.
747:14-748:3	401 (relevance); 403 (unduly prejudicial); 802 (hearsay)		Same as above.
755:19-755:23	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); Defendants object to the introduction of testimony regarding		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		
755:25-756:2	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
756:7-756:9	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	notices because TVT is a separate product not at issue in this case		
756:16-757:1	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); form; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
757:10-757:16	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); form; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
757:20-758:1	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); form; Defendants object to the introduction of testimony regarding		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		
758:5-758:8	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); form; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
758:10-758:20	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		
758:24-758:25	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
759:2-759:6	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; calls for legal conclusion; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
759:10-760:1	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; calls for legal conclusion; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
760:4-760:5	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; calls for legal conclusion; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		Same as above.
760:8-760:12	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; form; speculation; calls		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	for legal conclusion; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents relating to Gynemesh PS; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case		
		761:11-762:17 763:02-763:19 764:17-766:14 766:25-767:22 769:07-783:06 783:14-784:22 784:24-786:18 786:20-786:21 786:23-787:01 787:04-787:25 788:06-790:09 790:22-791:10 791:12-791:16 791:18-792:02 792:04-792:04 792:06-796:15 798:17-800:23 800:25-800:25 801:02-801:22 801:24-801:24 802:02-802:04	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Def's.' Objections	Def's.' Counters	Plaintiff Response/Objection
		802:06-802:09 802:11-803:06 (and Exhibit T-3615) 803:10-803:15 803:20-805:16 805:19-807:20 807:22-807:25 808:02-811:13 811:15-811:15 811:17-811:20 811:24-812:02 812:04-812:04 812:06-813:12	
Defendants' Exhibits Objections to Exhibits		Defendants' Objections	Plaintiff Response/Objection
	T1424	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case.	Plaintiffs adopt and incorporate their responses to Defendants' MILs TVT hold relevant to provide context to issues in this case and because it share common developmental history and is the same mesh. Witness was a 30b6 designee on the topics of ESI and spoliation. Admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
	T1428	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to the introduction of testimony regarding Alison London	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		Brown's documents because she separated from the company in 2007, prior to Ethicon's duty to preserve documents relating to Gynemesh PS.	
T3610		401 (relevance); 403 (unduly prejudicial); 802 (hearsay)	Same as above.
T3611		401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to reference to other lawsuits	Same as above.
T3612		401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; no foundation; Defendants object to the instruction of information regarding Sean O'Bryan because he separated from the company in 2005, prior to Ethicon's duty to preserve documents	Same as above.
T3613		401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to the	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		introduction of testimony regarding individuals who separated from the company prior to Ethicon's duty to preserve documents	
	T3614	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to the introduction of testimony regarding Laura Angelini's documents because she separated from the company in 2005, prior to Ethicon's duty to preserve documents	Same as above.
	1007 ETH.METH.00875544-46	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading	Same as above.
	2089 ETH.MESH.01949009-13	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to reference to other lawsuits	Same as above.
	2090 ETH.MESH.00154161-69	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to the introduction of testimony	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits	
	2093 ETH.MESH.00131484-90	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case; Defendants object to reference to other lawsuits	Same as above.
	1288 MITTENTHAL 1273-74	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); misleading; Defendants object to reference to other lawsuits; Defendants object to the introduction of testimony regarding TVT or TVT legal hold notices because TVT is a separate product not at issue in this case	Same as above.
	1014 ETH.METH.00332854-84	401 (relevance); 403 (unduly prejudicial); 802 (hearsay); Defendants	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		object to testimony regarding a general records retention CAPA examining Ethicon's change from a paper based records retention program to an electronic system.	

Sean O'Bryan

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Sean O'Bryan 05/18/12	This witness was a regulatory affairs employee at Ethicon during the pre-launch timeframe at Ethicon. This witness's testimony is inextricably intertwined with the FDA and therefore should be excluded pursuant to the motion to limine on same.		There is no testimony designated by Plaintiffs that implicate FDA testimony, and the testimony has been played in other cases where FDA was excluded in its entirety.
7:7-7:14			
15:22-15:25			
16:1-16:9		17:9-18:11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
22:12-23:8			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
25:14-25:16		25:17-19	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
47:15-48:7		48:8-22	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
49:25-50:24		50:25-51:9 51:11-23	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
85:22-86:8			
86:10-86:12			
97:11-98:6			
98:9-98:25			
99:15-99:19			
99:21-99:21			
100:15-101:2 (strike		101:2-3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
response after "Yes.")			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
101:5-102:2			
107:3-107:8			
107:10-107:13			
107:14-107:19 (Note: Strike "FDA" from line 15)			
107:21-107:21			
109:16-109:25			
141:9-141:10	401/403 – this testimony and exhibit (619) involves complications not alleged by this Plaintiff as a result of the product at issue in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
141:16-141:20	Same as above.		Same as above.
142:9-143:11	Same as above; also calls for improper medical expert opinion from a regulatory witness; lack of foundation.		Same as above. Question and answer is within witnesses' knowledge as a fact witness.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
143:13-143:19	Same as above; also calls for improper medical expert opinion from a regulatory witness; lack of foundation.		Same as above.
143:21-143:21	Same as above; also calls for improper medical expert opinion from a regulatory witness; lack of foundation.	143:22-145:10	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
144:5-145:10	Same as above.		Same as above.
145:23-146:3	Same as above.		Same as above.
147:2-147:8	Same as above; also, argumentative and mischaracterizes the evidence.	147:9-15	Same as above. Characterization of evidence is a matter for the jury and should be addressed on cross examination.
147:18-148:9	Same as above; also, argumentative and mischaracterizes the evidence.		Same as above.
154:25-155:10	Same as above; also, lack of foundation and assumes facts not in evidence.	153:17-154:1 154:3-4	Same as above. Proper hypothetical. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
165:18-166:5			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
166:7-166:12	Lack of foundation; lack of personal knowledge regarding what medical professionals rely on.		Same as above.
166:14-166:14	Same as above.	166:15-21	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
234:21-234:24	Argumentative; assumes facts not in evidence.		Same as above.
235:1-235:1	Same as above.		Same as above.
235:2-235:7	Same as above.		Same as above.
238:23-239:6	Same as above; also 401/403, involves complications not alleged by this Plaintiff. Also, compound.		Same as above.
239:8-239:16	Same as above.		Same as above.
239:18-239:18	Same as above.		Same as above.
258:3-258:18	Hearsay literature article; lack of foundation; lack of personal knowledge; involves complications not alleged by this Plaintiff.		Same as above.
258:19-259:13	Same as above.		Same as above.
259:14-259:22	Same as above; also, calls for speculation and assumes facts not in		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	evidence; improper hypothetical from a regulatory fact witness.		
260:24-261:22	Same as above; also, calls for speculation and assumes facts not in evidence; improper hypothetical from a regulatory fact witness.		Same as above.
261:23-261:24			
262:1-262:3			
265:8-266:12	Hearsay literature article; lack of foundation; lack of personal knowledge; involves complications not alleged by this Plaintiff.		Same as above. Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
267:3-267:14	Same as above; also, assumes facts not in evidence; mischaracterizes the evidence; lack of foundation; lack of personal knowledge.		Same as above.
271:15-272:6	Assumes facts not in evidence; mischaracterizes the evidence; lack of foundation; lack of personal knowledge; argumentative.		Same as above.
272:19-273:2	Assumes facts not in evidence; mischaracterizes the evidence; lack of foundation; lack of personal knowledge.		Same as above.
275:5-275:10	Assumes facts not in evidence; mischaracterizes the evidence; lack		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	of foundation; lack of personal knowledge; argumentative		
276:21-277:4			
281:22-282:3			
289:21-290:17	Testimony and exhibit relate to MIL re foreign regulatory evidence; 401/403; no expert designated who can opine regarding CER		Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine.
290:18-291:2	Same as above.	291:18-25 292:2-9	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
293:5-293:9	Same as above.	293:10-11 293:13-19	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
293:20-293:24	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
294:23-295:4	Same as above.		Same as above.
295:5-295:9	Same as above.		Same as above.
296:23-297:15	Same as above; also irrelevant as it relates to a product not at issue in this case.		Same as above.
297:19-297:23	Same as above.		Same as above.
297:25-298:3	Same as above.		Same as above.
300:3-300:14	Same as above.		Same as above.
300:22-301:6	Same as above.		Same as above.
302:3-302:6	Same as above.	302:9-12	Same as above.
305:11-305:19	Same as above; also argumentative, assumes facts not in evidence and poses an improper hypothetical to a fact witness.		Same as above. Question is proper.
305:21-305:22	Same as above; also argumentative, assumes facts not in evidence and poses an improper hypothetical to a fact witness.		Same as above.
327:22-328:7			
		311:18-320:10 324:10-15 324:18-23	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Charlotte Owens, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Charlotte Owens, MD 09/12/12			
8:1-8:4			
8:7-8:8			
14:6-14:22		14:23-15:24 16:7-20 17:4-22	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
22:2-22:5		22:6-16	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
22:17-22:20		22:21-23:16	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
24:8-24:16			
33:18-34:9		34:10-18	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
42:18-43:6			
46:6-46:11		44:14-45:24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
48:6-48:19			
53:1-53:5		48:20-49:13 50:1-11 52:2-25	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
53:20-54:6		53:6-18	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
67:5-67:17		66:25-67:5	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
67:18-68:1		68:2-8	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
71:22-72:13	Testimony and exhibit involve hearsay within hearsay from a non-Ethicon employee.		This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
73:3-73:25	Same as above.		Same as above.
77:2-77:13	Same as above.	78:12-79:7	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
124:18-126:14	401/403 – this testimony and exhibit (619) involves complications not alleged by this Plaintiff as a result of the product at issue in this case.	131:5-22	Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
132:2-132:8	Same as above.	131:5-22	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
142:16-143:8	401/403; involves complications not alleged by Plaintiff in this case.		Same as above.
143:21-144:10	Same as above.		Same as above.
144:13-144:14	Same as above.		Same as above.
144:15-144:19	Same as above.		Same as above.
145:5-145:11	Same as above.	145:12-24	Same as above.
146:16-146:22			
149:4-149:10			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
159:19-160:8	Testimony and exhibits relate to MIL re foreign regulatory evidence; 401/403; no expert designated who can opine regarding CER	160:9-15	Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine. Charlotte Owens testified regarding the CER as she wrote it.
165:12-165:16	Same as above.		Same as above.
165:19-169:24	Same as above.		Same as above.
175:15-175:23	Same as above.		Same as above.
180:19-181:1	Same as above.	181:2-17	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
181:23-182:5	Same as above.		Same as above.
182:7-182:10	Same as above.		Same as above.
186:24-187:11	Same as above.	185:18-24 187:12-188:5	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
188:6-188:14	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
188:18-189:23	Same as above.		Same as above.
189:25-190:5	Same as above.	190:6-14 191:5-18 191:21-25	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
196:7-196:25	Hearsay medical literature; involves complications not alleged by Plaintiff in this case.		Same as above.
197:7-199:23	Testimony and exhibits relate to MIL re foreign regulatory evidence; 401/403; no expert designated who can opine regarding CER	197:1-6	Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
200:2-200:12	Same as above.	200:13 200:17-21 200:23-201:2 201:4-10	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
205:21-206:4	Same as above.	205:2-18	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
240:16-240:20		241:9-18 241:21-242:5	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
248:8-248:17		247:11-248:5	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
254:13-254:22	Compound; incomplete designation.	254:23-255:5	<p>Designation is complete. Question was understood by witness.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
256:3-256:11	Same as above.	256:14-24 257:11-17	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
259:5-259:9	Subject to MIL regarding FDA evidence.		FDA not implicated by testimony
260:12-261:6		261:7-10 261:12-16	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
262:7-262:13		262:14-25	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
271:10-271:14		(9/13/2012 Dep) 534:17-535:7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			"two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
271:15-271:22			
271:24-272:4			
272:5-273:7		(9/13/2012 Dep) 517:22-518:12 (9/13/2012 Dep) 518:16-18 (9/13/2012 Dep) 544:3-11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
273:25-274:13		(9/13/2012 Dep) 517:22-518:12 (9/13/2012 Dep) 518:16-18 (9/13/2012 Dep) 544:3-11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
309:23-310:3		310:15-22 (9/13/2012 Dep) 534:17-535:7 (9/13/2012 Dep) 537:17-538:6 (9/13/2012 Dep) 538:9-539:17	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
310:25-311:10	401; 403; involves complications not alleged by Plaintiff in this case.	311:11-13 (9/13/2012 Dep) 546:21-547:9 (9/13/2012 Dep) 550:14-550:22	Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		(9/13/2012 Dep) 550:24-552:25 (9/13/2012 Dep) 553:2-3 (9/13/2012 Dep) 553:22-24	consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community" Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
311:20-312:4		(9/13/2012 Dep) 534:17-535:7 (9/13/2012 Dep) 537:17-538:6 (9/13/2012 Dep) 538:9-539:17 (9/13/2012 Dep) 553:22-24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
Charlotte Owens, MD 09/13/12			
369:15-19			
370:7-12			
404:12-405:6		518:19-520:4 520:14-521:8 521:9-522:6 522:7-523:10	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
414:21-414:25	Hearsay literature article.		Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
415:1-415:12	Hearsay literature article.		Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
425:5-425:12		518:19-520:4 520:14-521:8 521:9-522:6 522:7-523:10 525:4-8 525:11-12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
425:22-426:3	Incomplete designation.	426:4-6 426:8-9 518:19-520:4 520:14-521:8 521:9-522:6 522:7-523:10 525:4-8 525:11-12	Designation is not incomplete. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
426:17-426:17		518:19-520:4 520:14-521:8 521:9-522:6 522:7-523:10 525:4-8 525:11-12	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
432:13-432:23		518:19-520:4	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		520:14-521:8 521:9-522:6 522:7-523:10 525:4-8 525:11-12	were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
433:7-433:19	Hearsay literature article.		Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
434:21-436:14		532:5-9 532:16-533:6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
440:23-442:6			
443:17-443:19			
445:1-447:1			
449:12-449:22			
461:9-462:5			
463:25-464:4			
465:23-466:12		466:13-24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
467:17-467:21			
467:23-467:25		533:7-21 534:1-16 550:14-550:22	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
		550:24-552:25 553:2-3 553:5-7 553:9-15 553:18-20 553:22-24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
469:1-469:5	401; 403; involves complications not alleged by Plaintiff in this case.	533:7-21 534:1-16 550:14-550:22 550:24-552:25 553:2-3 553:5-7 553:9-15 553:18-20 553:22-24	<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
469:16-470:20	Same as above.	470:21-471:7 471:8-12 471:14-472:3 472:21-473:3 473:5-8 533:7-21 534:1-16 550:14-550:22 550:24-552:25 553:2-3 553:5-7 553:9-15 553:18-20 553:22-24	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
473:10-473:16	Same as above.		
473:18-473:25	Same as above.		
484:8-484:12			
484:15-484:23	401; 403; involves complications not alleged by Plaintiff in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
484:25-485:1	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
485:14-487:8			
487:9-488:16			
488:18-488:18		488:20-23	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
489:1-489:15		488:20-23	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
489:18-490:2	401; 403; involves complications not alleged by Plaintiff in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
490:4-490:5	Same as above.	490:7-10 490:12-14	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
490:16-491:1	Same as above.		
491:23-492:1	Same as above.	492:2-6	Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
502:21-503:4	401; 403; document post-dates Plaintiff's implant; involves complications not alleged by this Plaintiff.		<p>The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>
504:6-504:10	Same as above.		Same as above.
507:15-507:19	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
595:23-596:1	401; 403; involves complications not alleged by Plaintiff in this case.	596:2-6 596:9-14	Same as above. Relevant and probative. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
596:20-596:22	Same as above.	596:2-6 596:9-14	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
596:24-596:24	Same as above.	596:2-6 596:9-14	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
		509:8-19 510:2-3 510:8-513:22 513:25-514:23 515:2-518:12 518:16-520:4 520:8-521:17 522:7-523:10	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		524:2-14 525:4-8 525:11-21 527:9-19 527:22-529:10 532:1-533:21 534:1-538:6 538:9-549:21 549:25-550:22 550:24-552:25 553:2-7 553:9-24 554:15-15 554:18-555:15 555:17-556:17 556:21-557:3	

Paul Parisi

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Paul Parisi 12/13/11			
15:23-16:4			
15:16-16:18			
Paul Parisi 12/14/11			
358:3-358:15			
410:23-411:13			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
492:7-492:18			
506:11-506:21	Lack of foundation; lack of personal knowledge; calls for improper expert opinion.		Foundation established. No indication of speculation. Testimony within scope of witnesses' employment and knowledge.
571:18-571:21	Same as above.		Same as above.
Paul Parisi 01/24/12			
805:18-806:11			
807:24-808:3		808:4-11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
810:7-810:14			
810:23-811:1			
811:8-811:18			
Paul Parisi 06/05/13			
10:17-10:24			
56:3-56:8			
66:2-66:6			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
66:21-66:24			
67:3-67:21	Lack of foundation; lack of personal knowledge; calls for improper expert opinion.		Foundation established. No indication of speculation. Testimony within scope of witnesses' employment and knowledge.
69:19-69:22			
71:6-71:15	Hearsay literature article.		Not hearsay, question/testimony is proper. independent from literature article. Even if hearsay, testimony is admissible under 803(18).
79:24-80:4	Lack of foundation; lack of personal knowledge; calls for improper expert opinion.		Foundation established. No indication of speculation. Testimony within scope of witnesses' employment and knowledge.
80:7-80:24	Same as above; also, hearsay within hearsay.		Foundation established. No indication of speculation. Testimony within scope of witnesses' employment and knowledge. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
81:19-81:24	Lack of foundation; lack of personal knowledge; calls for improper expert opinion. Assumes facts not in evidence.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
82:8-82:8	Same as above.		Same as above.
84:19-84:23	Email post-dates Plaintiff's implant; 401/403; lack of foundation; lack of personal knowledge.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims. Testimony within scope of witnesses' employment and knowledge.
85:12-86:11	Same as above.		Same as above.
87:7-87:14	Email post-dates Plaintiff's implant; 401/403; lack of foundation; lack of personal knowledge.		Same as above.
88:7-88:19	Same as above.		Same as above.
88:25-89:5	Same as above.		Same as above.
89:17-89:22	Same as above.		Same as above.
131:2-131:12			
164:1-164:12	402/403 – this testimony relates to internal training of sales representatives for professional education activities, but there is no evidence in this case that connects this evidence to Plaintiff's alleged injuries.		The physician in this case was trained by Ethicon, including on the risks and benefits of device, which is relevant to FTW claims. If Ms. Smith would have been properly warned, she would not have agreed to the Prolift and therefore would not have been injured by the Prolift.
165:9-165:18	Same as above.		Same as above.
167:21-168:2	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
168:3-168:19	Same as above.		Same as above.
169:15-169:23	Same as above.		Same as above.
172:11-172:21	402/403 – this testimony relates to professional education for the Prolift +M, which is not at issue in this case.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims.
174:3-174:9	Same as above.		Same as above.
212:22-213:23	Same as above; also, calls for expert opinion testimony; lack of foundation; lack of personal knowledge.		Same as above. Proper fact witness testimony within scope of witness' knowledge.
246:21-247:2	Document post-dates Plaintiff's implant; 401/403.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
248:12-248:15	Same as above.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
247:16-248:9	Same as above.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
249:6-249:18	Same as above; lack of foundation; lack of personal knowledge.		Same as above. Foundation and knowledge established as witness was 30b6 witness designated by Ethicon on these issues.
		285:16 -285:18 286:7 -288:7 288:16 -288:18 289:1 -289:10 289:14 -289:22 290:12 -291:4 291:5-293:2 293:3 -294:18 294:19-295:9 296:25-298:18 299:1-300:22 300:23 -301:3 301:19 -304:6 304:12 -304:13 304:15 -304:17 305:15 -305:16	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Peggy Jo Clark Pence, Ph.D.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Peggy Jo Clark Pence, Ph.D. 11/14/12	See Defendants' general objection to this entire deposition as an improper designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to provide specific objections. Any objections served at a later date should be stricken as untimely.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	designated testimony if the general objections are overruled.		
322:7-323:4			
327:16-330:23			
338:7-338:9			
339:23-340:15			
375:3-376:8			
376:21-377:5			
377:11-377:25			
378:4-378:11			
385:15-387:4			
391:16-393:3			
412:23-413:2			
413:4-413:14			
429:10-429:14 (stopping at "adulterated")			
478:22-479:8			
499:8-499:13			
500:20- 500:20			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
501:3-501:14			
501:25-504:2			
504:3-506:9			
523:3-525:17			
527:2-528:13			
Peggy Jo Clark Pence, Ph.D. 03/09/16	See Defendants' general objection to this entire deposition as an improper designation of expert testimony where the witness has not been identified as unavailable for live trial testimony. Defendants' reserve the right to provide specific objections to this designated testimony if the general objections are overruled.		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to provide specific objections. Any objections served at a later date should be stricken as untimely.
10:12-10:13			
11:3-11:4			
11:9-12:20			
13:24-14:11			
29:6-29:15			
30:8-30:18			
37:12-38:8			

Michelle Ritter, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Michelle Ritter, MD 04/23/21			
6:13-7:5			
10:16-11:5			
21:17-20			
25:18-19			
31:13-18			
33:13-16			
38:6-8	Rule 401. Lack of foundation. Calls for speculation. Improper expert testimony.		Foundation established, testimony within designation and scope of knowledge as physician.
46:5-15			
52:15-21			
72:18-23			
74:10-18			
75:10-15			
79:4-12			
87:6-13			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
100:20-23			
112:20-113:20	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony.		Foundation established, testimony within designation and scope of knowledge as physician. No indication of speculation.
115:2-6	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony.		Foundation established, testimony within designation and scope of knowledge as physician. No indication of speculation.
115:8-21			
116:14-16			
116:23-117:2			
117:19-118:6			
119:1-19			
120:11-121:6	121:3-6 Calls for speculation		Witness is a medical doctor and is not speculating.
123:12-17	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony.		Foundation established, testimony within designation and scope of knowledge as physician. No indication of speculation.
124:7-13	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony.	Conditional counter: 124:14-15	Same as above Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
124:16-125:22	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony		Same as above.
127:5-13	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony	127:14-19	Same as above.
128:16-129:14	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony		Same as above.
129:16-22	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony		Same as above.
131:16-132:1	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony		Same as above.
132:20-133:17	Rule 401. Rule 403. Lack of foundation. Calls for speculation. Improper expert testimony		Same as above.
135:6-12			
135:19-136:2			
136:6-10		136:11-137:7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

David Robinson, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
David Robinson, MD 03/13/12			
11:17-11:19			
44:3-44:12			
45:1-45:7			
51:20-51:25	401/403 – Dr. Robinson was not an employee of Ethicon when Prolift was launched, so his opinion regarding clinical trials before products are sold is impermissible given that Dr. Robinson is not Plaintiff's retained expert witness.		Witness is giving fact witness testimony regarding his understanding of the Prolift at the time he was a medical Director in charge of the Prolift.
52:11-52:15	FRE 401/403; outside the scope – questioning the witness about his own personal opinions regarding medical device manufacturers and how they should act. The court will instruct the jury on the standard of care; not the witness's own opinions.		Same as above.
54:16-54:19	Same as above.	54:22-55:6	Same as above. Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
55:7-55:13			
55:15-55:15			
56:18-57:1	Confusing compound question; Lack of foundation.		Witness did not indicate lack of understanding of question.
57:3-57:5	Same as above.		Witness did not indicate lack of understanding of question.
58:16-58:22	FRE 401/403; outside the scope – questioning the witness about his own personal opinions regarding medical device manufacturers and how they should act. The court will instruct the jury on the standard of care; not the witness's own opinions.		Witness is giving fact witness testimony regarding his understanding of the Prolift and standards at the company at the time he was a medical Director in charge of the Prolift.
58:24-58:25	Same	59:13-22 59:24-60:2 60:18-61:2 62:13-22	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
70:21-71:16	Lacks context; confusing; involves complications not alleged by Plaintiff in this case.		Context established. Not confusing, and if so, is a matter to be addressed on cross examination.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
79:2-79:5			
79:7-79:11			
82:12-82:14		82:15-21	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
82:23-82:23			
105:17-105:20			
105:22-105:22		105:24- 106:6 106:8-25	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
157:10-157:18			
158:8-158:12			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
158:14-158:18			
158:20-158:21			
260:9-260:24	401/403; relates to complications not alleged by Plaintiff in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
263:18-263:23	Same as above.		Same as above.
263:25-263:25	Same as above.		Same as above.
287:10-287:12	401/403; video of surgical procedure (not Plaintiff)		Same as above. Video is relevant and probative to show technique.
287:13-289:3	Same as above.		Same as above.
289:9-289:13	Same as above.		Same as above.
289:15-289:18	Same as above.		Same as above.
289:20-289:20	Same as above.		Same as above.
290:4-290:7	Same as above.		Same as above.
290:9-290:9 (Note: Line 9	Same as above.	290:9-12	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
ending at "Yes)			Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
297:9-297:13	Impermissible hypothetical question to a fact witness. Calls for speculation.		Witness is giving fact witness testimony regarding his understanding of the Prolift at the time he was a medical Director in charge of the Prolift.
297:15-297:18	Same as above.		Same as above.
297:21-298:4	Same as above.		Same as above.
298:13-298:23	Same as above.		Same as above.
302:23- 303:20	401/403		Testimony is relevant and probative.
David Robinson, MD 03/14/12			
458:18-459:2			
459:12-459:17	401/403; calls for speculation; lack of foundation.		Testimony has foundation, is relevant and probative, and does not indicate any speculation.
459:19-459:19	Same as above.		Same as above.
464:6-464:23	401/403.	464:24-25 465:2-5 465:8-10	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
465:12-465:19	Same as above.		Same as above.
466:7-466:9	Same as above.		Same as above.
467:7-467:9	Same as above.		Same as above.
467:1-467:12	Same as above.		Same as above.
474:8-474:10	Same as above; also complication not alleged by Plaintiff in this case.		Same as above. Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
474:12-474:16	Same as above; also complication not alleged by Plaintiff in this case.	474:17-20 474:22-475:7	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
483:17-483:24	Lack of foundation – Dr. Robinson cannot speak for patient concerns as a general matter. Calls for speculation.		Witness is giving fact witness testimony regarding his understanding of the Prolift at the time he was a medical Director in charge of the Prolift.
484:1-484:1	Same as above.		Same as above.
486:9-486:23	<p>401/403: this testimony relates to the data that was available when Defendants launched the Prolift device in 2005. Moreover, Plaintiffs' attempt to use Defendants' conduct and actions pertaining to the Prolift would amount to an impermissible use of character evidence.</p> <p>402/403 – Dr. Robinson's personal opinions and interpretation of the term "rare" are highly prejudicial and minimally relevant.</p> <p>Calls for speculation; lack of foundation; lack of personal knowledge.</p>		<p>Same as above.</p> <p>The data/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the data post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.</p>
488:11-488:15	401/403	487:15-19 487:21-488:4 488:6-9	<p>Same as above.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
488:17-488:18	Same		

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
489:4-489:7		489:11-15 489:17 490:6-10 494:9-23	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
489:9-489:10			
492:23-493:8	Lack of foundation/outside the scope – plaintiff's counsel is asking Dr. Robinson for an expert opinion.	493:10-12 493:14-16	<p>Witness is giving fact witness testimony regarding his understanding of the Prolift at the time he was a medical Director in charge of the Prolift.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
504:8-504:15	Hearsay – this testimony relates to an email from a non-Ethicon employee, Dr. Butrick, who is opining on pain and the Prolift. Moreover, Dr. Butrick's opinions are expert in nature, but Plaintiff did not designate him as an expert in this case. Also post-dates Plaintiff's implant; 401/403. Also involves complications not alleged by Plaintiff in this case.		<p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p>

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
504:18-504:25	Same as above.		Same as above.
507:18-504:21	Same as above.		Same as above.
507:10-507:21	Same as above.		Same as above.
508:16-508:21	Same as above.		Same as above.
508:23-508:23	Same as above.		Same as above.
508:25-509:11	Same as above.		Same as above.
509:13-509:18	Same as above.		Same as above.
509:20-509:25	Same as above.		Same as above.
510:17-510:22	Same as above.		Same as above.
510:24-510:24	Same as above.		Same as above.
550:18-550:23	401/403 product not at issue; postdates Plaintiff's implant		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
552:16-553:2	Same as above.		Same as above.
553:4-553:5	Same as above.		Same as above.
553:19-554:2	Same as above.		Same as above.
626:11-626:20			
626:23-627:2			
629:8-630:8	Involves complications and products not at issue in this case.	624:2-625:2 627:13-628:23	<p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.</p>
631:2-631:7 (Note: line 7 ending at "yes")	Same as above.		Same as above.
631:12-632:15			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
David Robinson, MD 08/23/2012			
735:3-735:8			
750:8-751:10	Hearsay within hearsay; 403.		This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
751:12-751:12 (Note: line 12 ending at "yes")	Same as above.	751:12-16	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
752:10-752:20	Same as above.		Same as above.
905:8-906:23		909:24-910:15 910:24-911:25 912:2-912:22 913:1-914:11	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
915:2-915:17	401/403. Relates to product not at issue. subject to MIL re Foreign regulatory evidence; post-dates Plaintiff's implant.		Defendants misstate facts regarding clinical expert report. There are no regulatory standards, foreign or otherwise, implicated in this document or testimony and this testimony and document has been admitted in multiple Prolift trials. Plaintiffs adopt and incorporate their responses to Defendants' Motions in limine.
924:12-924:23	Complications not alleged by Plaintiff in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
925:7-925:11	Same as above.		Same as above.
		932:21-25 934:2-8 934:11-937:9 937:10-940:19 941:8-944:6 944:7-947:4 947:8-948:12 948:13-15 949:18 (starting with "It says") – 950:14 950:15-953:8 953:9-18 953:19-954:13 954:18-20	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		954:22-955:7 955:11-19 955:22-956:5 956:9-22 957:1-18 957:19-20 957:23-960:8 960:11-16 960:18- 961:5 961:6- 964:23 965:1-10 965:13-966:2 966:5-11 966:13-967:11 967:14-21 967:23-968:17 968:20-969:4 969:6-7 972:1-22 973:1-974:16 974:20-24 975:3-19 975:22-24 976:2-3 976:5-12 976:14-978:4 978:6-7 985:2-8 985:11-25 986:4-6 986:9-987:8 987:11-16 987:19-988:8 988:11-989:1	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		989:3-990:3 990:6-18	

Rene Selman

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Rene Selman 06/20/13			
11:16-11:20			
13:6-13:20			
16:18-17-1			
22:19-22:22			
Rene Selman 06/21/13			
636:15- 636:18			
637:2-637:6			
637:7-637:11			
637:12- 637:16			
664:14- 665:24	401/403; email post-dates Plaintiff's implant; lack of foundation; lack of		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	personal knowledge; calls for speculation.		claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims. Within scope of what witness knew or should have known as the president of the company.
666:11-666:19	Same as above.		Same as above.
678:24-680:4	Hearsay literature article; post-dates Plaintiff's implant.		Same as above.
683:21-684:7 (end at "Yes")	Improper hypothetical; calls for expert opinion	684:7-8	Same as above. Question is proper. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
687:20-688:11	401/403; emails post-date Plaintiff's implant; lack of foundation; lack of personal knowledge; hearsay within hearsay regarding email from non-Ethicon employee.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims. Within scope of what witness knew or should have known as the president of the company. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
689:2-690:16	Same as above.		Same as above.
691:14-691:17	Same as above.		Same as above.
692:11-692:23	Same as above; includes complications not alleged by Plaintiff in this case.		Same as above. Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
707:4-707:17	Lack of foundation; lack of personal knowledge; calls for improper expert testimony.		Same as above.
707:18-707:22	Same as above.		Same as above.
707:24-708:5	Same as above.		Same as above.
710:2-711:5	Same as above; also, assumes facts not in evidence; mischaracterizes		Same as above.
	the evidence; improper hypothetical.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
711:6-711:21	Same as above; also, assumes facts not in evidence; mischaracterizes the evidence; improper hypothetical.		Same as above.
726:6-726:17	Email post-dates Plaintiff's implant; 401/403.		Same as above.
726:18-727:2	Same as above.		Same as above.
727:14-727:22	Same as above; also, argumentative and calls for speculation; lack of foundation; lack of personal knowledge.	728:19-729:2	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
729:25-730:7	Same as above; also, argumentative and calls for speculation; lack of foundation; lack of personal knowledge.	730:8-12 730:14-17	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
733:14-733:22	Assumes facts not in evidence; mischaracterize the evidence; improper hypothetical.		Same as above.
734:6-734:20	Same as above.		Same as above.
764:3-764:13	Lack of foundation; lack of personal knowledge; improper expert opinion.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
764:23-765:11	401/403		Same as above.
765:12-765:18	Same as above.		Same as above.
765:19-765:24	Same as above.		Same as above.
766:1-766:1	Same as above.		Same as above.
766:3-766:8	Same as above.		Same as above.
766:9-766:13	Same as above.		Same as above.
766:22-767:7	Same as above.		Same as above.
767:16-767:21	Same as above; calls for speculation.		Same as above.
767:22-768:1	Same as above.		Same as above.
769:4-769:10	401/403 re general sales information of Prolift product. Postdates Plaintiff's implant.		Same as above.
770:4-770:18	Same as above.		Same as above.
770:19-770:22			
770:24-771:09			
772:1-773:1	Email post-dates Plaintiff's implant; lack of foundation; lack of personal knowledge. Improper expert opinion. Calls for speculation.		Same as above.
773:16-774:4	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
774:5-774:19	Same as above; also, argumentative.		Same as above.
827:10-827:21	Improper hypothetical; argumentative; assumes facts not in evidence.		Same as above.
829:3-829:7	Same as above.		Same as above.
829:13-829:21	Same as above.		Same as above.
		784:2-5 788:18-22 790:5-10 792:11-793:11 793:18-794:5 815:11-18 815:20-816:1 818:12-819:11 819:13-820:5 820:7-11 820:18-21 820:23 821:13-19 822:22-25 822:3-6 822:10-13	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a). .

Jessica Shen, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Jessica Shen, M.D. 02/29/12			
10:20-10:25			
22:19-23:10			
23:12-23:15			
206:19-206:20	Exhibit and testimony involves hearsay within hearsay. Physician IDIs. Also involves complications not alleged by Plaintiff in this case. Lack of foundation; lack of personal knowledge.		Foundation established. This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
207:16-207:25	Same as above.	208:1-8	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
208:18-209:9	Same as above.	208:1-8	Same as above.
209:11-209:16	Same as above.		Same as above.
209:18-209:20	Same as above.		Same as above.
209:22-209:23	Same as above.	209:25-210:6 210:14-211:1 211:306	Same as above.
211:8-211:11	Same as above. Also calls for improper expert opinion.		Same as above. Within scope of knowledge as fact witness.
211:13-211:14	Same as above.		
		<u>9/21/2012 Deposition</u> 435:7-436:16 437:4-438:5 438:20-25 439:8-18 440:17-442:17 444:6-9 450:24-451:23 455:7-17 456:8-457:12 461:14-462:6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Barbara Smith

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Plaintiff Barbara Smith 12/15/16			
4:20-21	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		See Plaintiffs response to general objections above. Plaintiffs object to Defendants "reserving their rights" to provide specific objections. Any objections served at a later date should be stricken as untimely.
6:15-7:9	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
27:17-28:21	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
62:15-23	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
64:21-65:6	Plaintiff has not made any attempt to meet her burden of showing that	Conditional counter: 65:7-66:2; 66:3-67:16	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
69:6-18	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).	Conditional counter: 60:12-22; 63:4-10; 69:19-71:15	Same as above.
71:16-73:1	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
73:11-19	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).	Conditional counter: 73:2-10; 73:20-24; 74:1-4	Same as above.
74:13-75:18	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4). Rule 401. Rule 403.		Same as above.
89:19-90:1	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at	Conditional counter:90:2-9; 90:2091:7	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	trial under any of the conditions set forth in FRCP 32(a)(4).		
95:8-96:5	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).	Conditional counter:	Same as above.
96:2-4	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).	Conditional counter: 96:9-98:1; 99:12-100:2	Same as above.
98:2-4	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
98:22-99:11	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
101:15-23	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).	Conditional counter:100:22101:14; 101:25-102:6	Same as above.
103:6-104:13	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at	Conditional counter: 104:20105:5; 105:14-24	Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	trial under any of the conditions set forth in FRCP 32(a)(4).		
105:9-11	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
109:4-18	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at		Same as above.
	trial under any of the conditions set forth in FRCP 32(a)(4).		Same as above.
112:9-11	Plaintiff has not made any attempt to meet her burden of showing that she is unavailable to testify live at trial under any of the conditions set forth in FRCP 32(a)(4).	Conditional counter: 112:12-14	Same as above.

Price St. Hilaire

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Price St. Hilaire 07/11/13			
11:7-11:8			
13:25-14:6			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
15:7-15:10			
23:1-23:4			
24:1-24:11			
24:12-24:21			
25:12-25:17			
26:16-26:24	401/403 – this testimony relates to the witness's alleged involvement in getting the term "experimental" removed from the 2007 ACOG practice bulletin's description of mesh kits. This testimony is irrelevant in this case because Plaintiff's implant occurred before the term "experimental" was actually removed from the ACOG bulletin, so it could not have affected Plaintiff.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
27:9-28:20	Same as above.		Same as above.
29:7-29:21	Same as above.		Same as above.
29:25-30:14	Same as above.		Same as above.
35:16-35:24	Same as above.		Same as above.
36:12-37:2	Same as above.		Same as above.
37:9-37:18	Same as above.		Same as above.
38:11-39:21	Same as above.		Same as above.
39:22-41:10	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
42:3-42:21	Same as above.		Same as above.
43:8-43:19	Same as above.		Same as above.
44:16-44:20	Same as above.		Same as above.
46:1-46:5	Same as above.		Same as above.
46:11-46:13	Same as above.		Same as above.
47:4-47:7	Same as above.		Same as above.
47:19-48:14	Same as above.		Same as above.
49:18-49:25	Same as above.		Same as above.
60:10-60:18	Same as above.		Same as above.
62:24-63:4	Same as above.		Same as above.
63:7-63:11	Same as above.		Same as above.
91:10-93:6	Post-dates Plaintiff's implant; 401/403.		Same as above.
107:12-107:18	Post-dates Plaintiff's implant; 401/403.		Same as above.
111:8-112:3			

Christophe Vailhe, Ph.D.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Christophe Vailhe, Ph.D. 06/20/13			
9:16-9:17			
22:1-22:5			
24:8-24:18			
25:1-25:7			
112:8-112:13 (Note: strike "to the draft of this version in" from lines: 8-9)	401/403; hearsay; post-dates Plaintiff's implant. Subject to MIL.		Same as above. Plaintiffs adopt and incorporate their responses to Defendants' MILs
215:15-215:18			
Christophe, Vailhe, Ph.D. 06/21/13			
343:19-344:5	401/403; hearsay; post-dates Plaintiff's implant. Subject to MIL.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			<p>implant does not make it inadmissible or irrelevant to those claims.</p> <p>Plaintiffs adopt and incorporate their responses to Defendants' MILs</p>
347:19-347:24	Same as above.		Same as above.
348:10-349:8	Same as above.		Same as above.
351:9-351:17	Same as above.		Same as above.
352:9-352:19	Same as above.		Same as above.
352:22-352:23	Same as above.		Same as above.
		521:8-23 533:23-534:12 534:16-20 534:23-535:1 535:19-536:2 536:4	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Clifford Volpe

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Clifford Volpe 02/28/12			
13:13-13:17			
24:7-24:9			
58:8-58:15			
222:14-223:2	401/403; post-dates Plaintiff's implant		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.
241:9-242:1	Lack of foundation; lack of personal knowledge; calls for improper expert opinion.		Same as above. This is fact witness testimony properly elicited from an Ethicon Engineer.
Clifford Volpe 02/29/12			
436: 9-436:22	401/403; hearsay within hearsay; email describes hearsay conversations with non-Ethicon employee. Post-dates Plaintiff's implant.		The document/testimony is relevant as to the product defect claims, failure to warn claims, fraud and punitive damages claims, and the fact that the document post-dates Plaintiff's implant does not make it inadmissible or irrelevant to those claims.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).
438:3-438:7	Same as above.		Same as above.
438:14-439:5	Same as above.		Same as above.
439:16-439:24	Same as above.		Same as above.
457:12-458:18	Same as above.		Same as above.
594:9-595:20	401/403; Post-dates Plaintiff's implant.		Same as above.
596:1-596:15	Same as above.		Same as above.
597:18-598:8	Same as above; calls for speculation; improper hypothetical to a fact witness.		Same as above. Question is proper for fact witness who is an engineer.
598:10-599:11			
611:18-612:3	401/403; complications not alleged by Plaintiff in this case.		Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"
615:23-616:1			
		636:16-638:18 638:25-639:5 639:19-642:17	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.

Martin Weisberg, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Martin Weisberg, MD 05/24/12			
28:10-28:13			
35:14-35:19		32:14-35:13	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).
41:16-41:21			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
43:4-43:8			
43:11-43:15			
53:12-53:21	401; 403; argumentative.		Relevant and highly probative. Proper question
179:23-182:4	401; 403; hearsay within hearsay; complications not alleged by Plaintiff in this case; subject to MIL		<p>Same as above.</p> <p>This is not hearsay in that it is not offered for the truth of the matter asserted, it is offered for the purposes of showing the witnesses' state of mind, Defendants' state of mind, knowledge of the company, and notice to the company. Even if it is hearsay, it is admissible under multiple hearsay exceptions, including 803(6), 803(5), 803(3), 803(1).</p> <p>Defendants Misstate facts re: complications not alleged. Ms. Smith remains at risk of additional injuries from the Prolift as long as the mesh remains in her body. Further, Plaintiff adopts and incorporates by reference her objection to Defendants' in limine at #3 concerning complications plaintiff does not allege, because Oregon follows the consumer-expectations test, hence the jury shall consider what the "ordinary consumer" would contemplate, including "ordinary knowledge common to the community"</p> <p>Plaintiffs adopt and incorporate their responses to Defendants' MILs</p>
180:18-181:12	Same as above.		Same as above.
181:13-182:4	Same as above.		Same as above.
183:21-183:25	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
184:6-184:25	Same as above.		Same as above.
186:1-187:2	Same as above.		Same as above.
187:4-187:5	Same as above.		Same as above.
179:23-182:4	Same as above.		Same as above.
184:6-184:25	Same as above.		Same as above.
		239:24-240:7 242:20-246:18	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).
Martin Weisberg, MD 05/30/2013			
10:21-10:23			
12:8-12:10			
41:7-41:13			
Martin Weisberg, MD 05/31/2013			
401:12-403:1			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
403:12-405:1	401; 403; involves a product not at issue in this case; subject to MIL.		Testimony is relevant to claims and defenses in this case. Plaintiffs adopt and incorporate their responses to Defendants' MILs
405:9-405:14	Same as above.	406:6-8	Sane as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2.
Martin Weisberg, MD 08/09/2013			
652:20-652:24	FRE 401/403; outside the scope – questioning the witness about his own personal opinions regarding medical device manufacturers and how they should act. The court will instruct the jury on the standard of		This is an Ethicon Medical Director designated as a 30b6 witness for Medical Affairs by the company. His testimony is within the scope of his designation and knowledge as a fact witness.
	care; not the witness's own opinions.		
653:11-653:14	Same as above.		Same as above.
653:15-653:22	Same as above.		Same as above.
661:10-661:19	Same as above.		Same as above.
661:21-661:22	Same as above.		Same as above.
661:25-661:25	Same as above.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
890:18-890:21	Same as above.		Same as above.
891:12-891:14	Same as above; also, Incomplete designation; vague; out of context; 403.		Same as above. Not vague, and if so, should be addressed by cross-examination or counter-designation.
891:17-891:24	Same as above; also, Incomplete designation; vague; out of context; 403.		Same as above.
895:23-896:2	Same as above.		Same as above.
959:24-960:5	Same as above.		Same as above.
960:7-960:25	Same as above.		Same as above.
961:11-961:13	Same as above.		Same as above.
961:15-961:17	Same as above.		Same as above.
961:20-962:10	Same as above.		Same as above.
967:18-968:1	Same as above.		Same as above.
		Defendants' Counter Designations: 977:6-979:12 979:22-980:3 980:23-982:13 983:7-984:24 985:12-18 1007:20-23 1008:18-1009:1 1009:11-14 1009:17-19 1009:21-1010:9	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. In addition, these are improper counters as they do not identify what testimony is being countered. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		1010:11-13 1010:15-18 1010:20-1011:8 1011:10-1012:3 1012:7-10 1012:14-1013:1 1015:5-8 1015:10-21 1015:23-1016:2 1016:5-6 1016:8-21 1016:23 1018:23-1022:12 1022:14-16 1026:12-19 1026:23-1027:1 1027:3-1028:6 1028:8-1029:13 1030:7-1032:14 1035:1-1036:11 1037:20-1039:2 1039:12-18 1040:3-1040:25 1041:2-9 1041:12-14 1041:16-1042:24 1043:1-7 1043:9-13 1043:15-25 1044:2-5 1044:7-12 1044:14-1045:19 1045:21-1046:3 1046:5-16	

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
		1046:18-1047:3 1047:6-7 1047:9-20 1047:22-1048:1 1048:3-20 1048:22-1049:7 1049:9 1049:11 1049:13-1050:2 1050:7-13 1050:15-21 1050:23-1051:1 1051:3-13 1051:15-18 1051:20 1051:23-25 1052:2-15 1052:17-24	

Jeffrey Wheat, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Jeffrey Wheat, M.D. 06/12/21			
6:23-8:4			
11:23-13:23			
14:1-15:2			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
15:4-14	Rule 401. Rule 403. Vague.		Relevant and probative, and not vague, but if so, is a matter to be addressed on cross-examination.
16:9-17:15			
18:2-14			
18:19-19:1			
19:2-12			
19:13-21:7			
21:8-10	Calls for speculation. Lack of foundation. Incomplete designation.	Conditional counter: 21:16-19	<p>Witness is a medical doctor, has foundation, and is not speculating. Designation is complete.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a). Not necessary for completeness, undue delay, 403, 611(a).</p>
21:21-23	Calls for speculation. Lack of foundation.	Conditional counter: 21:23-24	Same as above.
22:12-22	Calls for speculation. Lack of foundation.		Same as above.
22:23-23:8	Calls for speculation. Lack of foundation.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
23:9-24:23		24:24-25:3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
25:4-19	25:17-19. Lack of foundation. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness.
26:12-27:6	Calls for speculation. Lack of foundation.		Same as above.
27:7-10	Calls for speculation. Lack of foundation. Vague.		Same as above. Not vague, and if vague, is a matter for cross examination.
27:12-13	Calls for speculation. Lack of foundation.		Same as above.
27:18-28:12			
29:2-18	29:16-18. Calls for speculation. Lack of foundation. Vague.		Same as above.
29:20-30:4			
30:6-8	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Same as above.
30:9-21			
30:23-31:13	31:10-13 Calls for speculation. Lack of foundation. Vague.		Same as above.
31:15-21			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
32:8-20			
33:7-20		33:21; 33:23-24	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
34:1-4	Calls for speculation. Lack of foundation. Vague. Cumulative.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness.
34:6-13	Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness.
34:15-35:22	Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness.
35:23-36:2		36:3-8	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
36:9-37:5	Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
37:6-38:1	Calls for speculation. Lack of foundation. Vague. Improper expert testimony. Cumulative.		Same as above. Not cumulative.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
38:2-11			
38:12-43:12	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
43:14-44:8			
44:22-46:2	Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
46:20-48:11	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
48:12-49:17			
49:12-50:22	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
50:23-52:2			
52:3-55:1	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
55:3-58:3	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
58:4-62:13	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
63:5-19	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony. Cumulative.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
64:4-70:15	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
70:20-74:23	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
75:5-76:1		76:2-8	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
76:9-11	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.	76:13-16	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
			designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
76:18-77:21	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Same as above.
78:3-14	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.	Conditional counter: 77:22-23; 78:1-2	Same as above.
79:13-17	Rule 401.		Testimony is relevant
82:20-83:1	Rule 401. Lack of foundation.		Testimony is relevant and has foundation
83:6-21	Lack of foundation.		Same as above.
92:12-23			
94:18-95:2			
119:15-24		120:1-13	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
129:2-14			
131:8-14			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
132:14-17		132:24-133:6	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
134:12-135:23		134:24-137:3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
139:24-140:10		139:11-14	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
145:10-18			
148:22-149:7 (ending at "drainage")	Rule 401. Rule 403. Calls for speculation. Lack of foundation. Vague. Improper expert testimony.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
149:14-150:11			

Peter Zenthoefer, MD

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
Peter Zenthoefer, MD 01/31/17			
6:16-7:2			
7:22-24			
8:19-11:20			
12:2-13:2			
13:20-14:15			
14:19-22			
18:9-23 (end at "Prolift")		18:25-19:3	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
27:20-28:3 (end at "bit")			
45:2-23			
52:12-15			
55:11-17			

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
58:6-25	Rule 401. Rule 403. Nonresponsive.	Conditional counter:58:25-59:24	Relevant, probative, and responsive. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
65:7-66:1			
66:21-67:4	Vague. Lack of foundation.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
68:5-13	Vague. Lack of foundation. Calls for speculation.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
68:15-18	Vague. Lack of foundation. Calls for speculation.	Conditional counter: 68:19-69:11	Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
69:12-71:5	Rule 401. Rule 403. Improper expert opinion that was not, and could not have been formed during his care and treatment (about what Dr. Zenthoefer would have done in 2006 with knowledge he has today i.e., any knowledge gained long after his care and treatment of Plaintiff). Vague. Lack of foundation. Calls for speculation.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
72:14-73:25	Lack of foundation. Vague.	Conditional counter: 72:7-13	<p>Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.</p> <p>Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).</p>
74:2-12	Rule 401. Rule 403. Lack of foundation. Calls for speculation.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
78:13-21		78:22-79:7	Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
82:21-84:13	Lack of foundation. Calls for speculation.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
85:22-86:5	Incomplete designation.		Designation is complete.
88:14-89:21	Rule 401. Rule 403. Lack of foundation. Calls for speculation.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
89:25-90:18	Rule 401. Rule 403. Lack of foundation. Calls for speculation.		Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination.
90:12-17	Rule 401. Rule 403. Improper expert opinion that was not, and could not have been formed during his care and treatment (about what Dr. Zenthoefer would have done in 2006 with knowledge he has today i.e., any knowledge gained long after his care and treatment of Plaintiff). Vague. Lack of foundation. Calls for speculation	Conditional counter: 90:20-23; 90:25-91:10	Witness is a medical doctor, has foundation, is not speculating, and his testimony is within his designation and knowledge as a fact witness. Not vague, and if vague, is a matter for cross examination. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
92:5-13	Incomplete designation. Rule 401. Rule 403. Improper expert opinion that was not, and could not have been formed during his care and treatment (about what Dr.		Same as above.

Pltf. Desig.	Defs.' Objections	Defs.' Counters	Plaintiff Response/Objection
	Zenthoefer would have done in 2006 with knowledge he has today i.e., any knowledge gained long after his care and treatment of Plaintiff). Vague. Lack of foundation. Calls for speculation.		
93:20-94:2	Rule 401. Rule 403. Improper expert opinion that was not, and could not have been formed during his care and treatment (about what Dr. Zenthoefer would have done in 2006 with knowledge he has today i.e., any knowledge gained long after his care and treatment of Plaintiff). Vague. Lack of foundation. Calls for speculation.	94:3-17	Same as above. Further, Plaintiff objects to Defs.' counterdesignation because it violates the Court's Pretrial Order (ECF 193), as no counters were permitted and any supplemental designation was due "two days after plaintiff's submission," ECF 193 at p. 2. Not necessary for completeness, undue delay, 403, 611(a).
94:25-96:25	Misstates testimony.		Does not misstate testimony, and is a matter for cross-examination.